

# **BIRMINGHAM CITY COUNCIL**

## **LICENSING AND PUBLIC PROTECTION COMMITTEE**

**WEDNESDAY, 23 JUNE 2021 AT 10:30 HOURS**  
**IN BMI, LYTTLETON THEATRE, [VENUE ADDRESS]**

*Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.*

### **A G E N D A**

#### **1 NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

#### **2 DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

#### **3 APOLOGIES**

To receive any apologies.

#### **4 APPOINTMENT OF LICENSING AND PUBLIC PROTECTION COMMITTEE**

To note the appointment by the City Council of the Committee and Chairman for the Municipal Year 2021/2022 as follows:-

##### **Labour Group (10)**

Councillor Alex Aitken  
Councillor Olly Armstrong  
Councillor Nicky Brennan  
Councillor Phil Davis (Chairman)  
Councillor Diane Donaldson  
Councillor Nagina Kauser

Councillor Mike Leddy  
Councillor Mary Locke  
Councillor Chauhdry Rashid  
Councillor Mike Sharpe

**Conservative Group (4)**

Councillor Bob Beauchamp  
Councillor Adam Higgs  
Councillor Bruce Lines  
Councillor Simon Morrall

**Liberal Democrat Group (1)**

- Councillor Neil Eustace

5 **ELECTION OF DEPUTY CHAIR**

To elect a Deputy Chair for the municipal year 2021/22

6 **FUNCTIONS, POWERS AND DUTIES**

**1 - 4**

To note the Committee's Functions, Powers and Duties, as set out in the attached schedule.

7 **DATES OF MEETINGS OF LICENSING AND PUBLIC PROTECTION COMMITTEE**

The Committee is recommended to meet on the following Wednesdays at 1030 hours at the BMI Margaret Street, Birmingham.

8 September, 2021  
10 November, 2021  
19 January, 2022  
9 March, 2022

**Informal briefings**

14 July, 2021  
20 October, 2021 - **1430 hours**  
1 December, 2021  
9 February, 2022

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-

8 **LICENSING SUB-COMMITTEES 2021/2022**

i) To note the membership of Sub-Committees A.B and C appointed by the City Council for the Municipal Year 2021/2022 as detailed below.

ii) Each Sub-Committee comprises 3 Members (with a quorum of 3) and will determine matters relating to the Licensing Act 2003. the Gambling Act 2005, Hackney Carriage Licences, Private Hire Licences and such other business as may be referred to them by the Director of Regulation and Enforcement Services.

iii) Any Sub-Committee Member may appoint a nominee (Substitute) from their respective party group on the Licensing and Public Protection Committee to attend in their place. Any Member nominated must have had formal training as set out in Paragraph 9.6 of the Licensing Committee Code of Practice for Councillors and Officers set out in the Constitution.

### **Licensing Sub-Committee A - Mondays (1000 hours)**

#### **Councillors**

Phil Davis (Chairman)	Lab	Billesley Ward
Nagina Kauser	Lab	Aston Ward
Bob Beauchamp	Con	Perry Common Ward

### **Licensing sub-Committee B - Tuesdays (1000 hours)**

#### **Councillors**

Diane Donaldson	Lab	Bromford & Hodge Hill Ward
Mike Sharpe	Lab	Pype Hayes Ward
Adam Higgs	Con	Highters Ward
Heath		

### **Licensing Sub-Committee C - Wednesdays (1000 hours)**

#### **Councillors**

Nicky Brennan	Lab	Sparkhill Ward
Mary Locke	Lab	Stirchley Ward
Neil Eustace	Lib	Yardley East Ward

**5 - 12**

#### **9 MINUTES**

To confirm and sign the public section of the Minutes of the meeting held on 10 March, 2021.

**13 - 60**

#### **10 LICENSING POLICIES, PROCEDURES AND DELEGATIONS**

The report of Interim Assistant Director of Regulation & Enforcement

**61 - 70**

#### **11 COMMITTEE CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS**

To note the Licensing Committee Code of Practice for Councillors and Officers

**71 - 96**

#### **12 ANNUAL REPORT 2020/21 – TRADING STANDARDS/LICENSING/REGISTER OFFICE**

The report of Interim Assistant Director of Regulation & Enforcement

- 97 - 106**
- 13 **STREET TRADING – JUDICIAL REVIEW**
- The report of the Interim Assistant Director of Regulation & Enforcement
- 107 - 112**
- 14 **TACKLING ILLEGAL PLACARDING**
- The report of Interim Assistant Director of Regulation & Enforcement
- 113 - 132**
- 15 **REGULATION & ENFORCEMENT ACTIVITY REPORT – FEBRUARY & MARCH 2021**
- The report of the Interim Assistant Director of Regulation & Enforcement
- 133 - 184**
- 16 **PROSECUTIONS & CAUTIONS – JAN FEB MARCH & APRIL 2021**
- The report of Interim Assistant Director of Regulation & Enforcement
- 185 - 186**
- 17 **CHAIRS AUTHORITY REPORT – APRIL 2021**
- The report of Interim Assistant Director of Regulation & Enforcement
- 18 **OTHER URGENT BUSINESS**
- To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.
- 19 **AUTHORITY TO CHAIR AND OFFICERS**
- Chair 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'.
- 20 **EXCLUSION OF THE PUBLIC**
- That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-
- Exempt Paragraph 5 and 6

## **PRIVATE AGENDA**

1 **PRIVATE MINUTES**

To confirm and sign the private section of the minutes of the meeting held on 10 March, 2021.

2 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.



# **1. LICENSING AND PUBLIC PROTECTION COMMITTEE**

## **1.1 Role**

- i. To exercise the powers and duties of the Council with regard to regulatory, licensing and registration matters under all relevant legislation relating to the Licensing service, waste enforcement, Trading Standards service and Environmental Health Service;
- ii. Exercise and monitor the Council's powers; in respect of regulation and enforcement, monitoring performance of the Councils regulation and enforcement services as well as any hosted regional or national programmes;
- iii. Set fees, as applicable, in respect of trading standards, environmental health, licensing, highways skip permits, street trading, registration of births deaths and marriages (all services); private rented services.
- iv. Set conditions relating to Hackney carriage and private hire matters.
- v. Set conditions for any licensable activity allowed by legislation as appropriate
- vi. To exercise the powers and duties of the Council with regard to public protection matters which are non-executive functions.

## **1.2 Functions**

- vii. The Licensing and Public Protection Committee is authorised to discharge the following functions:
  - Set fees and charges, grant, refuse Issue, renew, suspend, revoke, or otherwise control any licences, authorisations, permits, registrations as appropriate under the scheme of delegations or powers provided to the council through enactments, regulations or bylaws;
  - Where applicable approve any pre application tests and requirements, in relation to any licences, authorisations or registrations issued by the Licensing Service
- viii. Members of Licensing Sub-Committees will sit as a statutory Licensing Committee as defined by the Licensing Act 2003 and the Gambling Act 2005 when carrying out functions of and ancillary to those Acts and is not required to observe political balance. Members of the Licensing & Public Protection Committee will sit as a general Licensing Committee when dealing with any other licensing functions of the Council and appointments must be politically proportionate.
- ix. The Committee is authorised to exercise the powers and duties of the Council under all relevant legislation and relating to the non-executive functions of the Committee except where

- Any function of the licensing authority under the Licensing Act 2003 (the 2003 Act), the Gambling Act 2005 (the 2005 Act), or the Police Reform and Social Responsibility Act 2011 (the 2011 Act) has been reserved to full Council; or
  - Any licensing function where Council has referred a matter to another committee.
  - Functions relating to any other hearings required under the 2003 Act or the 2005 Act that have not been reserved to the Licensing Committee.
  - The function of determining any matter where an officer has considered they should not exercise their delegated authority and has referred the matter to the sub-committee for determination.
- x. A Sub Committee is not authorised to discharge functions where the application relates to an event in the open air, in a temporary structure and where the proposed capacity of the event exceeds 30,000 people.

### **1.3 Membership**

- xi. Members of the Licensing and Public Protection Committee, and its Chair, are appointed by Full Council. There are fifteen members of the committee, and the quorum is five.
- xii. Substitute Members: no substitute Members are appointed for the Licensing and Public Protection Committee. In relation to each ordinary business Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other suitably trained members of the Licensing and Public Protection Committee.
- xiii. A substitute Member shall be entitled to attend in place of a regular Member provided that Committee Services has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that agenda item as a Member of the Licensing Sub-Committee concerned.
- xiv. A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.
- xv. The Licensing Committee Code of Practice for Councillors and Officers can be found in Part C9 of the Constitution.

### **1.4 Procedure Rules**

- xvi. Committee meetings will be called in accordance with Part C2 of the Constitution: *Access to Information*.
- xvii. The provisions of the Licensing Act 2003 (Hearings) Regulations 2005 shall apply to any hearings conducted under the provisions of the Licensing Act 2003 and in the



event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to such hearings the provisions of the Relevant Regulations shall prevail. Licensing Act 2003 matters fall outside of the remit of the Local Government Act 1972.

- xviii. The provisions of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 shall apply to the exercise of functions under Section 162 (1) and (2) and Section 201 (4) of the Gambling Act 2005 and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information procedure rules in relation to the exercise of such functions the provisions of the Relevant Regulations shall prevail.
- xix. The Licensing functions of the Council shall be carried out by the following bodies:
- Licensing and Public Protection Committee (15 Members with a quorum of 5)
  - Sub-Committees to be established by the Licensing and Public Protection Committee, comprising three Members drawn from the full Committee, to deal with matters under the Licensing Act 2003 and the Gambling Act 2003 as assigned and matters in respect of hackney carriages, private hire, vehicles drivers and operators. The Chairs of the Licensing and Public Protection (Licensing Sub)-Committee's role is to chair the licensing sub-committee meetings, deal with subsequent actions of appeals and assist in finding substitutes for members as required.
- xx. Before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee.
- xxi. Except where authorised by statute, business shall not be transacted at a meeting unless a quorum is present.



# BIRMINGHAM CITY COUNCIL

<b>LICENSING AND PUBLIC PROTECTION COMMITTEE 10 MARCH, 2021</b>
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**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY, 10 MARCH, 2021 AT 1030  
HOURS AS AN ONLINE MICROSOFT TEAMS  
MEETING**

**PRESENT:** - Councillor Phil Davis in the Chair;

Councillors Olly Armstrong, Bob Beauchamp, Neil Eustace, Adam Higgs, Nagina Kauser, Mike Leddy, Mary Locke, Majid Mahmood, Simon Morrall, Chauhdry Rashid, Mike Sharpe and Martin Straker Welds.

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**NOTICE OF RECORDING/WEBCAST**

- 1351 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members' of the press/public may record and take photographs except where there were confidential or exempt items.

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**DECLARATIONS OF INTEREST**

- 1352 Members were reminded that they must declare all relevant pecuniary and non pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

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**APOLOGIES**

- 1353 An apology was given on behalf of Councillor Olly Armstrong however he later attended the meeting.

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**MINUTES**

- 1354 The public minutes of the meetings held on 18 November, 18 December, 2020 and 13 January, 2021 having been previously circulated were confirmed and signed by the Chair.

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**The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.**

**LICENSING AND PUBLIC PROTECTION BUDGET MONITORING 2020/21 - QUARTER 3**

The following Report of the Interim Assistant Director for Regulation and Enforcement was submitted:-

(See document no. 1)

David Jones made introductory comments relating to the report giving a summary of the report and financial position outlining the main service areas.

In response to questions from Members he indicated that the Covid-19 related funding was monitored corporately on an on-going basis. This was for additional costs owing to Covid-19. The grant for compliance with enforcement was separate to this grant and also ringfenced to that particular programme. The support to businesses was related to fish exports and any certificates required for Europe. They were looking to respond to any additional requests for assistance with certification from businesses in Birmingham. This was in the fees and charges budget and they were hoping to make it self sustainable in the future.

1355

**RESOLVED:-**

- i) Note the latest Revenue budget position at the end of December 2020 (Quarter 3) including Forecast Outturn and COVID-19 response implications as detailed in Appendix 1.
- ii) Note the analysis of both COVID-19 and Non-COVID-19 related pressures as set out in Appendix 2
- iii) Note the position for the Savings Programme for 2020/21 as detailed in Appendix 3.
- iv) Note the position on Capital projects, as detailed in Appendix 4.
- v) Note the position on reserves and balances, as detailed in Appendix 5.

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**LPPC 2021-22 BUDGET REPORT**

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

(See document no. 2)

David Jones made introductory comments relating to the report and gave a summary of the report, explaining the details in the report. In response to questions from Members, Mark Croxford informed that staff undertook 15 hours of training and this would be accommodated for and carried out regularly. Sajeela Nasser added that any costs incurred in developing the policy and any potential judicial review costs were accounted for when setting the fees and charges. The fees were set according to what the costs were on a rolling process. This should be at no cost to Birmingham City Council.

1356

**RESOLVED:-**

That the Licensing and Public Protection Committee –

- i) Note the 2021/22 Revenue Budget Changes as detailed in Appendix 1.
- ii) Note the 2021/22 Service and Subjective Budget in Appendix 2.
- iii) Note the Budget 2021/22 to 2024/25 in Appendix 3.
- iv) Note the latest 2021/22 Reserves position as detailed in Appendix 4.

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**REGULATION & ENFORCEMENT ACTIVITY REPORT DECEMBER 2020 & JANUARY 2021**

The following report of the Interim Assistant Director for Regulation and Enforcement was submitted:-

(See document no. 3)

Paul Lankester, Interim Assistant Director, Regulation made introductory comments relating to the report during which he indicated that since writing the report, it should be noted that there had been a reduction in the registration of deaths over the past few weeks.

Councillor Mary Locke thanked staff for the work they had undertaken during the pandemic. She was concerned about the increase in the number of cases as the lockdown eased. In response to a comment from the Chair regarding the impact on services Paul Lankester referred to the Government's road map to 21 June, 2021. The Department had been set up to deal with this. The funding for the Covid-19 Marshalls finished at the end of February, 2021 however funding had been secured through the Director of Public Health to retain those services.

Members placed on record their thanks to all the staff over this period. In response to comments and questions from Councillor Majid Mahmood, Mark Croxford replied that the £889K ringfenced grant had all been spent. They will now be able to fund the extra enforcement officer for whistleblowing and were working with the police dealing with illegal gatherings etc. Enforcement officers were tackling businesses and giving them advice on compliance. Sajeela Nasser advised that inspections had been carried out with partners including the police.

Tony Quigley informed that they were aware of the fake negative Covid -19 certificates and were investigating and awaiting further information. With regard to the Illegal Money Lending Team, they had a draft of the boards game that will go in the parks. These were subject to permission from the parks to ensure they could be incorporated into any design or plan. This could will be looked into for Councillor Majid Mahmood. Councillor Locke's mention of the Friend's of Parks was noted. The considerations were where the board game could be safely installed avoiding other play areas and not breaching the covenant of the park.

Paul Lankester reported that the Government had announced that they were extending Pavement Licences for a further year to September, 2022. He hoped to give another briefing to the Committee on all of the work done on Covid-19 and in addition on the income from enforceable activities. The Chair agreed that a post Covid-19 review was required.

1357

**RESOLVED:-**

That the content of the report be noted.

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**LICENSING FEES AND CHARGES REPORT 2021-22**

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

(See document no. 4)

Emma Rohoman made introductory comments relating to the report and gave a summary of the report during which she indicated that an amendment should be made to paragraph 2.1 – the date 5 April should be amended to 1 April. It was noted that the format of the report had been changed.

In addition it was noted that a letter of support had been received from a person representing one of the larger Private Hire Operators regarding the fees proposed for the Hackney Carriage and Private Hire area and this had been forwarded to Members. The letter was supportive of the proposals however they reserved judgement on the proposals for the two new large operators fees.

With regard to comparative information with other Local Authorities the Chair informed that BCC had been in dialogue with other Local Authorities.

In reply to Councillor Majid Mahmood's comment regarding the consideration of a 5 or 10 year renewal period for licences, Emma Rohoman advised that the duration of licences was set by legislation. A full review of Hackney Carriage and Private Hire licences had been proposed. One of the proposals to consider was a 3 year default licence and what options will be made available. The new licences will allow efficiencies in all areas. Benchmarking against all other Local Authorities was not straight forward as all the other LA's had slightly different ways in administrating their licences. Following the review BCC will be able to be more cost effective.

Councillor Majid Mahmood noted that some other LA's had used their Covid-19 grant to reduce costs. There had been a number of queries from drivers following the £1,000 grant being offered by BCC. A number of issues had been highlighted in particular:-

1. The delay in the Covid-19 grant being paid.
2. Non payment of the Covid-19 grant for taxi drivers under the Clean Air Zone upgrade.
3. Non payment of the Covid-19 grant to citizens who were licenced outside Birmingham
4. Non payment of the Covid-19 grant for BCC licence holders who lived outside the City
5. The feasible discretion grant scheme for licence holders and the gap between making the recommendation and payment of the grant for CAZ compliant vehicles.
6. The review of Uber by the Supreme Court and whether operator licences will be reviewed to ensure they are now compliant with the ruling

The Chair suggested that as there were a lot of complex issues raised Councillor Majid Mahmood should put his queries in writing to Paul Lankester for a response. He added that the Cabinet Member for Transportation and the Deputy Leader will be taking an overview of issues with Covid-19 grants. Paul Lankester undertook to look into and respond to the issues raised. The Chair undertook to speak to the Cabinet Members and to report back to Licensing and Public Protection Committee as appropriate.

It was proposed and seconded

1358

**RESOLVED:-**

- i) That the changes to the Licensing Service fees and charges as detailed in Appendix 1(a-e) be approved to take effect from 1 April 2021.
- ii) That the new Private Hire Operator Licence Fees detailed in Paragraph 4.1 and Appendix 1a be agreed and, subject to the statutory advertising process as outlined in Paragraph 6, to take effect from 1 May 2021.
- iii) That the Prescribed fees detailed in Appendix 1(e) and (f) be noted.

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**REGULATION AND ENFORCEMENT FEES AND CHARGES REPORT 2021-22**

The following report of the Interim Assistant Director for Regulation and Enforcement was submitted:-

(See document no. 5)

Mark Croxford, Head of Environmental Health and Tony Quigley , Trading Standards presented the report. Councillor Majid Mahmood was supportive of the recommendation to remove the early payment discount for fixed penalty notices. The Committee was informed that the saving with regard to pest control for fleas and bedbugs was as a result of changing the product used.

It was

1359

**RESOLVED:-**

- i) That the changes to the fees and charges for Trading Standards Services, as detailed in Appendix 1, are approved to take effect from 1 April 2021.
  - ii) That the changes to the fees and charges for Environmental Health Services, as detailed in Appendix 2(a), are approved to take effect from 1 April 2021.
  - iii) That the changes to the fees and charges for Animal Welfare Services, as detailed in Appendix 2(b), are approved to take effect from 1 April 2021.
  - iv) That the changes to the fees and charges for Environmental Health Fixed Penalty Notices, as detailed in Appendix 2(c), are approved to take effect from 1 April 2021.
  - v) That the changes to the fees and charges for Pest Control Services, as detailed in Appendix 2(d), are approved to take effect from 1 April 2021.
  - vi) That the changes to the fees and charges for Register Office Services, as detailed in Appendix 3, are approved to take effect from 1 April 2021.
  - vii) That the statutorily set charges for the Register Office, as detailed in Appendix 3(a) be noted.
  - viii) That the changes to the fees and charges for Coroner's Services as detailed in Appendix 4, are approved to take effect from 1 April 2021.
  - ix) That the changes to the fees and charges for Birmingham Account Team (Acivico-Building Consultancy) as detailed in Appendix 5, are approved to take effect from 1 April 2021.
  - x) That the changes to the fees and charges for Highways Services as detailed in Appendix 6 are approved to take effect from 1<sup>st</sup> April 2021.
  - xi) That authority be delegated to the Interim Assistant 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.
-



**MORATORIUM EXEMPTION EXTENSION REPORT**

The following report of the Interim Assistant Director for Regulation and Enforcement was submitted:-

(See document no. 6)

Sajeela Nasser made introductory comments relating to the report and in response to a question undertook to look into support given to drivers through the CAZ team and also enquire whether BCC had committed to buying any new vehicles. The Chair suggested that an update be circulated to Members.

1360

**RESOLVED:-**

- i) The Committee approve the proposal to extend the limited exemption from the requirements of the moratorium, for those vehicle proprietors meeting the criteria detailed at 5.3, until 1 January 2024.
- ii) The parameters and requirements set out at paragraphs 5.2 to 5.4 in this report be approved.

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**PROSECUTIONS AND CAUTIONS – NOVEMBER & DECEMBER 2020**

The following report of the Interim Assistant Director for Regulation and Enforcement was submitted:-

(See document no. 7)

Councillor Majid Mahmood suggested a that a fine be considered as a deterrent for drivers caught plying for hire. In response to comments made Paul Lankester, Interim Assistant Director, Regulation and Enforcement informed that they were concerned about the different level of costs and disparity between cases for prosecutions and cautions. Regular meetings needed to held with the Magistrates Court to understand this. They could consider a wall of shame as part of the review of the enforcement policy, but take into account the legislation for the right to be slation after a period of time. He agreed with the Chair that the media attention around food safety was a good deterrent and detrimental to a business however they preferred businesses to be compliant. The less inspections were carried out the more non-compliance there was. He also agreed with Councillor Majid Mahmood that the safety of citizens was paramount

1361

**RESOLVED:-**

That the report be noted.

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**CHAIRS AUTHORITY REPORT – JANUARY 2021**

The following report of the Interim Assistant Director for Regulation and Enforcement was submitted:-

(See document no. 8)

1362

**RESOLVED:-**

That the report be noted.

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**DATE OF NEXT MEETING**

1363

It was agreed that the meeting on 14 April, 2021 will be an informal briefing for Members.

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**OTHER URGENT BUSINESS**

1364

There was no other urgent business.

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**AUTHORITY TO CHAIR AND OFFICERS**

1365

**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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**EXCLUSION OF THE PUBLIC**

1366

**RESOLVED:-**

That, in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-

Agenda Item etc.

Relevant Paragraph of Exempt  
Information Under Revised  
Schedule 12A of the Local  
Government Act 1972

Minutes

5 and 6

**BIRMINGHAM CITY COUNCIL**

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

**23 JUNE 2021  
ALL WARDS**

**LICENSING AUTHORITY POLICIES, PROCEDURES AND DELEGATIONS**

1. Summary

- 1.1 This report outlines the policies, procedures and delegations, which have been built up over many years in relation to licensing authority issues, allowing the Licensing Authority to delegate the bulk of the administration associated with the licensing regime to be carried out by Officers.
- 1.2 It also ensures that the Committee itself acts in a manner which is as open and consistent as circumstances allow.
- 1.3 The report consolidates existing policy, procedures and delegations and also includes a review of changes made as a result of the Covid 19 response.

2. Recommendations

- 2.1 That the Committee considers and agrees the proposals detailed in Paragraph 5.3-5.6 to the report concerning the temporary alterations to policy matters introduced in the response to the Covid pandemic.
- 2.2 That the Committee Considers the proposal in paragraph 5.7 concerning hackney carriage and private hire delegations and determines whether to
  - a) Withdraw the delegation and return the matters to the sub-committee meetings held 'in-person' from September 2021.
  - b) Continue the delegation with a further review to be presented to the Committee in September 2021, or
  - c) Confirm the delegation as standard, subject to annual reporting with all other delegations.
- 2.3 That the Committee considers and agrees the alterations detailed in paragraphs 6.1 and 6.2.
- 2.4 That the report be noted.

Contact Officer: Emma Rohomon, Licensing Manager  
Telephone: 0121 303 9780  
E-mail: [emma.rohomon@birmingham.gov.uk](mailto:emma.rohomon@birmingham.gov.uk)

### 3. Background

- 3.1 The City Council has a number of licensing, regulatory and registration powers and duties and the exercise of these powers and duties is delegated to the Licensing and Public Protection Committee. The granting and issuing of specific licences, permits and registrations is delegated to the Interim Assistant Director of Regulation and Enforcement on the understanding that any applications giving rise to concern or difficulty may be referred to the Licensing and Public Protection Committee or its sub-committees for determination where appropriate.
- 3.2 As detailed in the Constitution, formulation of a strategic policy sits with the Executive, unless otherwise specified in legislation. In the case of Licensing and registration, this falls within the remit of the Leader of the Council.
- 3.3 The Licensing and Public Protection Committee is responsible for all other aspects of the licensing and registration function, save for Scrap Metal (See Section 5 below) and as such will have the opportunity to influence any proposed new policies or changes to existing policies.
- 3.4 The Licensing Service is responsible for the administration of grants, renewals and transfers as appropriate of hackney carriage and private hire vehicles, drivers and operators licences and for issuing licences under the Licensing Act 2003 and Gambling Act 2005, sex establishment and animal welfare legislation, and issuing permits for charitable collections and massage and special treatments etc. as well as the associated variations, amendments and transfers, which are carried out under policies delegated by your Committee.
- 3.5 Street Trading matters are now within the remit of your Committee. The new policy was agreed and, as has been previously reported, the judicial review opposing its implementation was unsuccessful.
- 3.6 The hackney carriage and private hire policies, and the Statement of Licensing Policy will be undergoing significant review projects this year. Members will be kept apprised of the progress.

### 4. Licensing and Public Protection Committee

- 4.1 The licensing function of the City Council is disposed of through the processes and procedures of the Licensing and Public Protection Committee, sub-committees and officers by virtue of the Local Government Acts and other relevant statutory provisions.
- 4.2 The Court of Appeal stated in the “Hope and Glory” case (2011) that the licensing function of the licensing authority is an administrative function, by contrast with the function of the magistrates, which is a judicial function. The Court of Appeal said this:

*“The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of power delegated by the people as a whole to decide what the public interest requires.”*

This means that it must act in accordance with the two rules of natural justice. These are firstly that everyone has a right to be heard and secondly the rule against bias.

- 4.3 The right to be heard requires that a person directly affected by the matter under consideration must be given a fair opportunity both to state his/her case and to know of and to respond to any objections.
- 4.4 The rule against bias prohibits members participating in any decision if they have a financial or other interest in the outcome. Members will be familiar with this requirement from their general duties as Councillors.
- 4.5 Further guidance on the determination of matters concerning licensing appears at Annexe 1.
- 4.6 In September 2016 Members of the Licensing and Public Protection Committee agreed a Code of Conduct for its members, when sitting as the Licensing Committee. This Code was adopted into the Constitution in September 2019 by City Council.
- 4.7 The provisions as set out in the appendices to this report summarise the Council's policies in respect of the activities it licences.
- 4.8 The Statutory Policies have review mechanisms built in which require them to be reviewed or revised on a regular basis.
- 5. Consideration of amendments introduced in response to Covid-19.
  - 5.1 A number of changes to processes and delegations were required to enable the Licensing Service to continue operating and facilitating the work of the licensed trades.
  - 5.2 In April and May 2020 changes to various policies were agreed which have been collated in Appendix 7 – Covid 19 Response.
  - 5.3 For General Licensing it is proposed to continue with the requirements concerning online applications, and the provision to publicise applications more widely. These changes have enabled officers to respond to applications in accordance with the statutory time limits, in a Covid-secure manner.

- 5.4 For Massage & Special Treatment and Sex Shop & Sex Cinema matters~:  
It is proposed to cease the concession allowing a licence holder to apply for a 'late' renewal at the standard renewal fee after 1<sup>st</sup> August 2021. (almost 6 weeks) from the date of this report. This is to reflect that these businesses are now able to trade again.
- 5.5 For Sexual Entertainment Venue matters, it is proposed to cease the concession allowing a licence holder to apply for a 'late' renewal at the standard renewal fee. However, it is proposed this decision to take effect 6 weeks from the date on which such businesses are permitted to reopen. (This date is subject to confirmation as part of the Government's Roadmap to Recovery.)
- 5.6 For hackney carriage and private hire matters, it is proposed to continue with the concessions regarding late renewal of licences, with this decision (if agreed) to be reviewed in a report to be brought before your Committee in September 2021
- 5.7 Delegations:  
In order to allow matters to be dealt with expediently and in a covid-secure manner, matters which would ordinarily have been referred to a sub-committee were delegated to an officer 'panel' process. The process has been in operation for over 12 months now and has been found to be an effective method to deal with matters for consideration. Reports are still produced, and questions are put to applicants/ subjects who have an opportunity to respond. Legal advice is still sought and provided.
- 5.8 This delegated process has proved to be an effective way of dealing with these matters – and has eliminated the inefficiencies suffered by the previous arrangements. In the past, the sub committees were beset with issues of timing – with matters either overrunning, or time lost due to non-attendance.
- 5.9 It is proposed these delegations should continue. It is a matter for Members to decide if you wish this delegation to remain temporary, with a further review report brought to your Committee in September or if they wish the delegation to become standard, to be reviewed annually as part of the yearly policies Procedures and Delegations report.
- 5.10 Unlike sub committees convened to address Licensing Act 2003 or Gambling Act 2005 matters, those convened to hear 'driver' cases would be required to be held in person not remotely. If members are minded to cease the delegation of sub-committee matters, a 3 month lead in time would be required, in order to make the necessary adjustments, and arrangements.

6. Other amendments for consideration.

6.1

Animal Welfare	
<b>The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018</b>	Delegation of consideration of applications to Senior Animal Welfare Officer from Head of Environmental Health
“	Amendment to text (as highlighted in Appendix 2)

7 Matters Outside of the Licensing and Public Protection Committee Scope

7.1 Scrap Metal:

Matters relating to Scrap Metal Dealers are defined by legislation as an executive function of the City Council and cannot be determined by the Licensing and Public Protection Committee. Your officers still carry out the functions, but under a Policy and delegations reported to the appropriate Cabinet Member.

7.2 Safety at Sports Grounds – Safety Advisory Groups (SAGs).

Previously, it has been the Licensing and Public Protection Committee who nominated the elected members to sit on Safety at Sports Grounds SAGS. This responsibility now lies with Full Council with up to 4 members per group.

8. Consultation

8.1 This report seeks to reproduce in one document a number of policies which have been implemented over a number of years.

8.2 Any new policies or significant amendments to existing policies will be subject to a consultation process where appropriate.

9. Implications for Resources

9.1 It is the responsibility of the Committee Chairman and the Interim Director of Regulation and Enforcement to ensure the services provided by the Committee are contained within the approved budget.

9.2 The measures introduced in response to the Covid-19 pandemic have resulted in different ways of working, particularly in terms of sub-committees. This will have led to more flexibility, greater efficiencies, and reductions in officer travelling time and meeting room requirements.

9.3 Changes to the Hackney Carriage and private hire sub-committees have resulted in greater efficiency as the previous arrangements had been beset with delays and scheduling difficulties predominantly caused by non-attendance of applicants.

10. Implications for Policy Priorities

10.1 The issues addressed in this report relate to the City Council priorities associated with creating a cleaner, greener and safer city and providing excellent services.

11. Public Sector Equality Duty

11.1 This report seeks to reproduce in one document a number of policies which have been implemented over a number of years. It does not seek to introduce any changes which would impact upon the protected characteristics.

**INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Birmingham City Council Constitution



HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING	
Policy Document	
<p>This document details the policies of the Licensing and Public Protection Committee applicable to Hackney Carriage and Private Hire.</p> <p>Policies are codified for ease of reference, and legislative requirements are also cited for completeness and clarity.</p>	
The legislation impacting on hackney carriage and private hire vehicles is the Town Police Clauses Act 1847, Birmingham City Council Hackney Carriage Byelaws 2008, the Local Government (Miscellaneous Provisions) Act 1976, Transport Act 1985, and the Equalities Act 2010.	TPCA 1847, LGMPA 76, TA 85, EA 2010
Although both hackney carriages and private hire vehicles are licensed to carry passengers, there is a distinct difference in the way vehicles can be made available for hire.	TPCA s45
Hackney carriages ("black cabs") are the only vehicles licensed to ply for hire, which means that they may stand on taxi ranks, respond to a flag down in the street, and are generally available for immediate hiring.	TPCA s45
Private hire vehicles must be pre-booked in advance, through a licensed private hire operator and may not use taxi ranks, respond to a flag down in the street, or be offered for immediate hiring.	TPCA s45
Hackney carriage vehicles must be fitted with a taximeter which calculates the fare according to time and distance travelled.	TPCA s68
The meter is tested and sealed to ensure accuracy and compliance with the fare structure agreed by the Council (this is an Executive function).	(byelaw 6)
The current table of fares must be displayed in the vehicle.	TPCA s68 (byelaw 10)
There is no power for the licensing authority to control the fares charged for private hire journeys, the fare structure for each company being set by the licensed operator.	
Conditions of licence require the operator's table of fares to be displayed inside each private hire vehicle.	Conditions (new combined condition 12)
Although both hackney carriages and private hire vehicles are commonly referred to as taxis, the word "taxi" has a statutory definition, by virtue of the Transport Act 1985, and may only be applied to a licensed hackney carriage.	TA 1985 s13
For this reason Birmingham's licensing conditions prevent private hire operators, vehicles or drivers from using the words "taxi" or "cab" in relation to their business.	Conditions (Operator 17)
The hackney carriage fleet is made up exclusively of purpose-built cabs, all of which are equipped for wheelchair accessibility.	Policy HCV1
At present there is a moratorium on the issue of new hackney carriage vehicle licences which was agreed by the former Licensing Committee in September 2008. This moratorium was reviewed in September 2010 and again in September 2014 and 2017 whereupon it was extended for a further three years. The Committee has the authority to revert to the previous arrangements, whereby no limits were imposed, if that is considered appropriate.	Policy HCV2
<p>**The review of the moratorium is currently in abeyance until the effects of the pandemic/lockdown have subsided</p>	

In addition to the requirements for an annual vehicle inspection and meter test, vehicle owners must also produce insurance for the vehicle, covering its use for public or private hire as appropriate before a licence can be issued. Further, the insurance for licensed vehicles must be maintained continuously throughout the duration of the licence.	Policy Veh1
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Licensing Hackney Carriage and Private Hire Drivers	
Individuals must satisfy the authority that they are fit and proper to be licensed drivers.	LGMPA 76 s51
<p>The following application process is designed to ensure services delivered within the City are of a good standard and is subject to the appropriate fees being paid:</p> <ul style="list-style-type: none"> <li>• application received</li> <li>• entitlement to drive in the UK checked</li> <li>• entitlement to work in the UK checked</li> <li>• knowledge test</li> <li>• criminal record check</li> <li>• medical</li> <li>• driving test</li> <li>• disability and safeguarding awareness course ('The awareness course')</li> <li>• licence fee paid</li> <li>• licence issued</li> <li>• (It may be necessary for an application to be referred to for a decision at any stage of this process.)</li> </ul>	
Application Received:	
The application form will be checked and details entered onto the Licensing Service computer system.	
Entitlement to drive in the UK Checked:	
An EU or EEA licence is acceptable as long as the counterpart licence issued by DVLA (for EU and EEA drivers) accompanies it. However, vocational drivers may not drive indefinitely on an EU or EEA licence and must produce a United Kingdom DVLA driving licence if they have been resident in the UK for five years or more. An applicant for a hackney carriage or private hire driver's licence must have held a full DVLA driver's licence (or EU equivalent) for at least two years.	Policy DVLA1

Entitlement to work in the UK checked	
The Immigration Act 2016 (the 2016 Act) amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle (PHV) and taxi sector. With effect from 1 December 2016, the provisions in the 2016 Act prohibit any licensing authorities across the UK from issuing to anyone who is disqualified by reason of their immigration status. This duty is discharged by conducting immigration checks. Birmingham City Council has been checking a new applicant's right to live and work in the UK since 2009, so the impact of this new legislation has been minimal.	IMMIGRATION ACT 2016
Knowledge Tests	

Knowledge folders are prepared annually for hackney carriage licences and should remain current for three years from the date of first issue (in exceptional circumstances it may become necessary to amend this duration).	Policy KT1
An applicant may take the test associated with a knowledge folder at any time after issue, up to and including the expiry date subject to test appointment availability.	Policy KT2
Candidates failing to attend or making a third test cancellation without an adequate and evidenced reason should be required to wait twelve months before being allowed to take the test.	Policy KT3
Candidates absent or cancelling, within five clear working days, without an adequate and evidenced reason will forfeit their test fees.	Policy KT4
Knowledge folders contain a combination of legal, licence condition, route and two point location questions applicable to the licence type. Candidates must identify and memorise the answers to those questions and answer a selection of questions as detailed below.	Policy KT5
<b>Knowledge Test - Hackney Carriage</b>	
The hackney carriage knowledge test is conducted in-house and under normal test conditions (no communication with another person except the examiner, no reference to any material during the test except the test paper).	PolicyHCKT1
The test must be completed within two hours if conducted verbally, and three hours if written. (If a candidate wishes to take a written knowledge test, they must also complete the verbal communications test (VCT).)	PolicyHCKT2
The test consists of 106 questions (6 legal, 80 two-point locations and 20 routes) selected at random from the relevant knowledge folder.	PolicyHCKT3
All six legal questions must be answered fully and correctly.	PolicyHCKT4
The applicant must answer 90% of the remaining routes and two point location questions correctly in order to pass the test.	PolicyHCKT5
The applicant must pass this test to progress their application and is allowed three attempts.	PolicyHCKT6
The application process is terminated if the applicant fails the third test. The applicant can re-apply after a period of twelve months from the date of the last failed knowledge test.	PolicyHCKT7

Knowledge Test Private Hire	
<b>**To ensure the test could be delivered in a covid-secure manner, and in a more flexible and efficient manner this test is now conducted on behalf of the licensing service by an external provider</b>	
The private hire knowledge test is conducted in-house and under normal test conditions (no communication with another person except the examiner, no reference to any material during the test except the answer sheet.	Policy PHKT1
The test is intended to check basic English and communication skills and understanding of Law and licence conditions applicable to a private hire driver. The test does not require any geographical knowledge. The test consists of eighteen questions, six on The Law, six on conditions of licence and further six questions about plying for hire.	Policy PHKT2
The test is conducted verbally and candidates indicate the correct answer on a multiple choice answer sheet.	Policy PHKT3
No more than two wrong answers are allowed in each of the Legal and Conditions sections and a candidate giving three wrong answers in one of these sections will fail the test outright.	Policy PHKT4
The six plying for hire questions must all be answered correctly. Failure to do so is an outright failure of the test.	Policy PHKT6
An applicant is allowed three attempts at a test.	Policy PHKT7
The application process is terminated if the applicant fails the third test. The applicant can re-apply after a period of twelve months from the date of the last failed knowledge test.	Policy PHKT8
All forms of mobile communication device are barred from the test and must be switched off and placed on the table in full view of the examiner before the test begins. Any person found attempting to use a mobile device or whose mobile device activates in any way during the test will be disqualified.	Policy PHKT9
Criminal Record Check	
All applicants and drivers are required to undertake an enhanced Disclosure and Barring Service (DBS) check. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974 by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 and convictions are, therefore, never spent.	PolicyDBS1
On initial application, and every three years thereafter, where a licence is granted a driver will be subject to a criminal record check facilitated by the DBS.	PolicyDBS2
Where the DBS check reveals cautions or convictions relating to drugs, dishonesty, violence, or offences of a sexual nature, or reveals any information giving cause for concern, the applicant, or licensed driver will be referred to the Licensing Sub-Committee where the individual's fitness to hold a licence will be considered, unless those matters have already been taken into consideration and passed by Committee.	PolicyDBS3
All new applicants who have been resident abroad as adults must produce evidence of good conduct in that country or the equivalent of a DBS disclosure before their application can be considered. Any matters revealed will be dealt with in the same way as any revealed by the DBS check.	PolicyDBS4
An applicant who has fled an oppressive regime or has other reasonable grounds to believe that obtaining such documentation would be impossible or dangerous may apply for an exemption and should support that application with a Statutory Declaration and a verifiable character reference from an individual employed in a Prominent 'Regulated Occupation'. Further details in this respect are available on request.	PolicyDBS5
Drivers' licences are currently renewed at the choice of the licensee for one, two or three years, to coincide with the DBS check.	

On renewal, applicants are required to show their current DVLA driving licence for any possible endorsements. This is done by producing their (valid) photocard AND a check code issued by DVLA. This can be obtained at <a href="https://www.gov.uk/view-driving-licence">https://www.gov.uk/view-driving-licence</a>	Policy DVLA1
Where a DVLA driving licence check reveals matters or information that gives cause for concern the application can be referred for consideration in accordance with the scheme of delegations (unless previously considered and passed by Committee).	Policy DVLA2
<b>Medical</b>	
All applicants for the grant of a driver's licence are required to undertake and pass a Group II medical examination for vocational drivers before a licence can be issued. The medical is conducted at Birmingham City Council's Occupational Health Service.	Policy Med1
Once licensed, drivers remain subject to further medical checks as follows: <ul style="list-style-type: none"> <li>• Drivers aged 45 and under - every 5 years</li> <li>• Drivers between 45 and 64 - every 3 years</li> <li>• Drivers 65+ - every year.</li> </ul> (unless otherwise specified by Occupational Health)	Policy Med2
<b>Driving Test</b>	
Qualified examiners based within the City Council's Driver Training Service conduct the driving test.	Policy DT1
The applicant must pass the test in order to progress their application and is allowed three attempts.	Policy DT2
The application process is terminated if the applicant fails the third test.	Policy DT3
The applicant is eligible to re-apply after a period of twelve months from the date of the last driving test.	Policy DT4
<b>Disability and Safeguarding Awareness Training</b>	
All new applicants for the grant of a driver's licence must undergo the Birmingham City Council approved awareness training. The course is mandatory and subject to a fee, payable by the applicant.	Policy AT1
<b>Fee Paid and Licence Issued</b>	
An application will not be considered complete until such time as all fees have been paid. A licence is issued with attached conditions and the licensee is considered to have accepted those conditions unless appealed to Magistrate's Court within 21 days of issue, or granted exemption /alternative by a Licensing Sub-Committee.	LGMPA 76 s53
Whilst an application for the grant of a licence is pending the applicant will undertake such tests and checks as the Licensing and Public Protection Committee deem appropriate and this may include new tests introduced whilst the application is in progress.	Policy APP2
An incomplete application on which there has been no activity for a period of twelve months or more, will be deemed abandoned and treated as withdrawn. Where an applicant returns to the Licensing Service to pursue an application deemed abandoned they will be required to submit new forms and undertake all tests. with the exception of the awareness course if already taken.	Policy APP3
<b>Driver Licence- Renewal</b>	
A driver's licence is eligible for renewal from a date ten weeks prior to the expiry of the licence. The renewal of a licence will be subject to the policies relating to medicals, DBS checks, outstanding enforcement issues, and DVLA licence checks. An expired driver's licence may be renewed up to one calendar month after the expiry date.	Policy DREN1

Late renewal	
The period of one month after the licence has expired is referred to as the “late renewal period” and any renewal application submitted within the late renewal period will attract the fee associated with the grant of a licence. Any application submitted more than one month after expiry will be considered a new application and will be required to include all tests and checks applicable to a new application. Where there are exceptional circumstances which may warrant an exemption from that requirement, Officers may refer the matter for consideration in accordance with the scheme of delegations for determination or to agree a later renewal.	Policy DREN2

Multiple Driver Licence Types	
If a driver already holds one type of licence and applies for another type of licence they must undergo all the relevant tests that were either not applicable or not in force at the time the first licence was granted.	Policy MultiBadge 1
In any case where a medical or DBS check on the original licence is more than 12 months old, an applicant will be required to undertake another, the new check becoming current for both licences.	Policy MultiBadge 2
Driving test and Disability and Safeguarding course passes can be carried over to the new application.	Policy MultiBadge 3
Knowledge test passes will not be carried over or exempted except where agreed by Committee.	Policy MultiBadge 4
Any person may request their application be referred for consideration in accordance with the scheme of delegations; however, the Head of Licensing or their nominated deputies, in consultation with the Chair of the Licensing and Public Protection Committee, may refuse such a request where the request is considered to be frivolous, vexatious or repetitious.	Policy- SubRefusal
Lost or Stolen Driver Licence (Badge)	
In the event a badge is lost or stolen this information must be reported to the Licensing office within three working days (not including Saturday and Sunday).	Policy LossBadge1
If the badge has been stolen the Police must be informed and a Police report number obtained.	Policy LossBadge2
If the badge has been lost a declaration to this effect must be made to the Licensing Offices.	Policy LossBadge3
A replacement badge will be issued on payment of a fee and satisfactory driving licence checks.	Policy LossBadge4
A person may not legally work as a hackney carriage or private hire driver without being in possession of a current badge.	LGMPA 76 s54(2)(a)

<b>Licensing Hackney Carriage and Private Hire Vehicles</b>	
The Law states no-one can drive a hackney carriage or private hire vehicle licensed by Birmingham City Council unless they are licensed to do so i.e. they hold a current valid hackney carriage or private hire driver's licence, as appropriate, issued by Birmingham City Council.	LGMPA 76 s46
<b>Insurance</b>	
Vehicle proprietors must produce current, valid, insurance covering the use of the vehicle for public or private hire as applicable, before a licence can be issued.	LGMPA 76 s48(1)(b)
<b>Transfer of vehicle licence</b>	
Transfer of interest in a licence shall be completed only when the old identity plate(s) and licence are returned to the Licensing Office.	Policy Transfer1
If this cannot be done, the previous owner must sign a declaration informing the Licensing Office of the whereabouts of the vehicle identity plates or the reason the identity plates cannot be produced. This declaration will be used to assist in progressing with the transfer application.	Policy Transfer2
The transfer fee will be charged where interest in a vehicle licence is transferred to another proprietor. Where a renewal or replacement is conducted simultaneously both fees will be due.	Policy Transfer3
<b>Vehicle Replacement</b>	
The replacement fee will be charged when a vehicle is replaced during the life of a licence. Where a renewal or transfer is conducted simultaneously both fees will be due. If transfer, replacement and renewal transactions are conducted simultaneously the replacement fee will be waived.	Policy REP1
<b>Lost or Stolen Vehicle Licence (Plate)</b>	
In the event a vehicle identity plate is stolen the Police must be informed and a Police report number obtained. If the identity plate is lost a signed declaration must be made to this effect. This information must be reported to the Licensing Office within three working days. A replacement plate will be issued on payment of a fee and production of a valid insurance document and DVLA driving licence.	Policy LossPlate1
<b>Licensing a vehicle registered to another keeper:</b>	
Where an applicant for a vehicle licence provides a registration document indicating that the registered keeper is another individual, or legal entity, the applicant will be required to provide a letter from the registered keeper indicating that use of the vehicle as a hackney carriage or private hire vehicle by the applicant, is done with their full knowledge and consent.	Policy Keeper1
Where an applicant for a vehicle licence provides a registration document indicating that the registered keeper is another individual, or legal entity, the applicant will be required to provide a letter from the insurers indicating that they are aware of the arrangement and content to provide appropriate insurance cover in those circumstances.	Policy Keeper2

Expired Hackney Carriage Vehicle Licence	
When a hackney carriage vehicle licence has expired and more than one calendar month has elapsed any attempt to re-licence the vehicle must be considered in accordance with the scheme of delegations.	Policy ExpHack1
Approved Vehicle Types – Hackney Carriage	
The Licensing Authority has set down a series of specifications that a vehicle will need to comply with prior to it being accepted as a licensed vehicle:	
<ul style="list-style-type: none"> <li>Vehicles specifically adapted for wheelchair carriage which meet the M1 European standard. All vehicles must meet the requirements of the Specification for wheelchair accessible HCV's.</li> </ul>	Policy HCVSpec1
<ul style="list-style-type: none"> <li>Any M1 vehicle adapted to be a hackney carriage where the adaptations are approved by the Vehicle Certification Agency (VCA) and the adaptations have VCA certification to European Whole Vehicle Type Approval (EWVTA) or G/B/ Low Volume (Small Series) Type Approval.</li> </ul>	Policy HCVSpec2
<ul style="list-style-type: none"> <li>The front seat of a hackney carriage vehicle will not be included in the seating capacity indicated on the vehicle licence.</li> </ul>	Policy HCVSpec3
<ul style="list-style-type: none"> <li>Any MPV or van derived M1 class vehicle to be licensed as a hackney carriage must be black in colour and must not be fitted with full-body advertising livery.</li> </ul>	Policy HCVSpec4
<ul style="list-style-type: none"> <li>Purpose built Hackney Carriage vehicles cannot be licensed for the purposes of private hire.</li> </ul>	LGMPA 76 s48(1)(a)(ii)
<ul style="list-style-type: none"> <li>With effect from 1 January 2026, any new or replacement vehicle presented for licensing must qualify as an Ultra Low Emission Vehicle (ULEV)</li> </ul>	Policy HCVSpec5
Approved Vehicle Types – Private Hire	
The private hire licensing provisions apply to a variety of vehicles ranging from four-door saloon vehicles to people carriers, however, those vehicles should be:	
<ul style="list-style-type: none"> <li>built to M1 specification.</li> </ul>	Policy PHVSpec1
<ul style="list-style-type: none"> <li>be capable of carrying a minimum of four average sized adults in comfort.</li> </ul>	Policy PHVSpec2
<ul style="list-style-type: none"> <li>All vehicles must be right hand drive and must not have fewer than four road wheels.</li> </ul>	Policy PHVSpec3
<ul style="list-style-type: none"> <li>Cars must have a minimum of four doors giving adequate access to and egress from the vehicle. The design of the car can be saloon, hatchback or estate.</li> </ul>	Policy PHVSpec4
<ul style="list-style-type: none"> <li>Larger vehicles (MPV, minibus, or people mover types) must have sufficient doors of sufficient size to allow passengers to get in and out quickly and safely.</li> </ul>	Policy PHVSpec5
<ul style="list-style-type: none"> <li>Where exit from the rear seats in vehicles equipped with three rows of seats requires operation of a tip seat mechanism, passengers must be able to exit from either side of the vehicle and the tip seats at either end of the middle row must be capable of independent operation.</li> </ul>	Policy PHVSpec6
<ul style="list-style-type: none"> <li>Where a vehicle is equipped with pop-up, or auxiliary seats intended for occasional use only, those seats must not be included in the licensed capacity of the vehicle, unless they meet the minimum seat size requirements.</li> </ul>	Policy PHVSpec7
<ul style="list-style-type: none"> <li>Where the vehicle configuration requires a whole bench seat to slide and/or tip for access/egress to the rear seats, the rear seats should not be included in the seating capacity and should be removed to avoid pressure from passengers to carry numbers in excess of the licensed capacity.</li> </ul>	Policy PHVSpec8



<ul style="list-style-type: none"> <li>All vehicles must have a wheelbase (when measured from the centre of the front wheel to the centre of the rear wheel) of at least 2540mm (100 inches).</li> </ul>	Policy PHVSpec9
<ul style="list-style-type: none"> <li>Cars must have a back seat width (when measured in a continuous line from edge to edge) of at least 1220mm (48 inches).</li> </ul>	Policy PHVSpec10
<ul style="list-style-type: none"> <li>Larger capacity vehicles (MPV, minibus, or people mover types) which are fitted with individual seats, or which do not have full width bench seats, must have a minimum 407mm (16 inches) of seat space per passenger across the width of the seat.</li> </ul>	Policy PHVSpec11
<ul style="list-style-type: none"> <li>Seat belts must be provided for all passengers according to the licensed capacity of the vehicle.</li> </ul>	Policy PHVSpec12
<ul style="list-style-type: none"> <li>Vehicles equipped with soft tops, removable hard tops and people carriers (MPV types) described as black on the log book, will not be licensed for the purpose of private hire.</li> </ul>	Policy PHVSpec13
<ul style="list-style-type: none"> <li>Vehicles fitted with darker tints and privacy glass can be licensed where the glass is to factory standard and vehicles are presented to licensing in an unmodified state, vehicles fitted with films, foils, or any other aftermarket tinting will be refused a licence, unless the tinting is removed and the vehicle returned to the manufacturer's standard specification.</li> </ul>	Policy PHVSpec14
<ul style="list-style-type: none"> <li>Vehicles identified as stretched limousines, or novelty vehicles will be considered outside the scope of this definition, in line with current practice.</li> </ul>	Policy PHVSpec15
<ul style="list-style-type: none"> <li>With effect from 1 January 2021, any new or replacement vehicle presented for licensing must qualify as an Ultra Low Emission Vehicle (ULEV)</li> </ul>	Policy PHVSpec16
Private Hire Vehicle Signage Requirements	
<ul style="list-style-type: none"> <li>Unless specifically granted exemption to all or part of the private hire vehicle signage policy, all licensed private hire vehicles must display the full range of prescribed signage throughout the duration of the licence.</li> </ul>	Policy PHVSign1
<ul style="list-style-type: none"> <li>The rear licence plate must be fixed to the exterior rear of the vehicle, in such a position as to be clearly visible. The plate should be attached using a purpose made bracket, or other appropriate fixing in order to render it impossible to remove without the use of tools.</li> </ul>	Policy PHVSign2
<ul style="list-style-type: none"> <li>The Semi-permanent door signs must be applied to the centre of both rear passenger doors and must remain in place for the duration of the licence</li> </ul>	Policy PHVSign3
<ul style="list-style-type: none"> <li>The double sided front windscreen sign must be fixed inside the nearside bottom corner of the windscreen, in a position where it is visible to an observer outside the vehicle and to a front seat passenger.</li> </ul>	Policy PHVSign4
<ul style="list-style-type: none"> <li>A Call Sign number, to be issued by the Licensed Operator, must be displayed in the upper nearside corner of the rear window and the upper nearside corner of the front windscreen.</li> </ul>	Policy PHVSign5
<ul style="list-style-type: none"> <li>All plates and signage displayed on the vehicle must be kept clean, unobstructed and must not be altered or tampered with in any way.</li> </ul>	Policy PHVSign6
<ul style="list-style-type: none"> <li>A private hire vehicle must not be driven or operated, unless it is displaying in the manner prescribed, the vehicle identification plates, which must remain continuously attached throughout the duration of the licence, unless the licence is surrendered, suspended or revoked.</li> </ul>	Policy PHVSign7
<ul style="list-style-type: none"> <li>No Smoking signage must be displayed in the vehicle and comply with current smoke free legislation.</li> </ul>	Policy PHVSign8
<ul style="list-style-type: none"> <li>Private Hire Operator Door Signs must be displayed on the front doors of the vehicle whenever the vehicle is employed on a job or available for dispatch. Vehicles <u>MUST</u> display the door sign appropriate to the job on which they are employed and <u>MUST NOT</u> display more than one door sign at the same time or display the door sign for one operator, when undertaking work on behalf of another.</li> </ul>	Policy PHVSign9
<ul style="list-style-type: none"> <li>The plates and signage may only be displayed on the Birmingham City Council licensed private hire vehicles for which they were issued. No one may cause or permit the plates or signs to be placed on any other vehicle.</li> </ul>	Policy PHVSign10

<ul style="list-style-type: none"> <li>If a Private Hire Vehicle Licence expires, is suspended, revoked or refused renewal, the vehicle identity plates issued by the Licensing Authority, must be returned to the Licensing Office within 7 days.</li> </ul>	Policy PHVSign11
<ul style="list-style-type: none"> <li>Vehicles granted exemption from any of the requirements of the Private Hire Vehicle Signage Policy must carry the exemption letter at all times and it must be produced on request to a Police Officer or an authorised officer of Birmingham City Council or any other local licensing authority.</li> </ul>	Policy PHVSign12
<b>Transfer of Hackney Carriage Vehicle Licence</b>	
A proprietor of a hackney carriage vehicle may replace, swap or change their vehicle with another licensed hackney carriage vehicle provided it is less than 15 years old..	Policy HCVTran1
In this policy it is understood that the licence and its related vehicle will remain together and not be separated.	Policy HCVTran2
<b>Transfer of Private Hire Vehicle Licence</b>	
Private hire vehicle licences may only be transferred to a vehicle that is less than 8 years old.	Policy PHVTran1
The licence to be transferred into the proprietor's name must relate to a vehicle, that is less than 12 years old. Failure to comply with this policy will result in the private hire vehicle licence being transferred for the duration of the life of the licence; however, the Council will refuse to renew that licence when it expires.	Policy PHVTran2

<b>Replacement of Hackney Carriage Vehicle Licence</b>	
A hackney carriage vehicle licence may only be transferred to another vehicle (that is to say separated from its related vehicle and moved to another vehicle) that is younger/newer than the age of the vehicle currently licensed.	Policy HCVRep1
<b>Replacement of Private Hire Vehicle Licence</b>	
A licensed private hire vehicle can only be replaced with a vehicle which, is less than 8 years old at the time of the transaction.	Policy PHVRep1
Failure to comply with this policy will result in the refusal of the application.	Policy PHVRep2
<b>Age Limit – Hackney Carriage Vehicles</b>	
No vehicle over the age of 15 years will be granted a licence.	Policy HCVAge1
No vehicle over the age of 15 years will have its licence renewed	Policy HCVAge2

<b>Age Limit - Private Hire Vehicles</b>	
No vehicle over the age of 8 years will be granted a licence.	Policy PHVAge1
No vehicle over the age of 12 years will have its licence renewed	Policy PHVAge2
<b>Clean Air Zone Mitigation Exemption for Hackney Carriage Vehicles</b>	
A limited exemption from the moratorium on the issue of new hackney carriage vehicle licences can be allowed for proprietors of hackney carriage vehicles who surrender or allow their vehicle licence to expire between 1 January 2019 and 1 January 2024, to the effect they may apply for the grant of a new hackney carriage vehicle licence irrespective of any moratorium requirement, so long as the applicant meets all of the qualifying criteria below. The vehicle must be of a suitable type and all licensing prerequisites applicable at the time of licensing must be complied with	Policy MitEx1
<ul style="list-style-type: none"> <li>The applicant must be a hackney carriage proprietor who held a current, valid hackney carriage vehicle licence between 1 January 2019 and 1 January 2024. Entitlement to request a new issue hackney carriage plate cannot be transferred to any other party.</li> </ul>	Policy MitEx2
<ul style="list-style-type: none"> <li>The licence in question must have expired or been surrendered between those dates. There will be no entitlement to request issue of a new licence if the original vehicle was sold and/or the licence was transferred to another proprietor.</li> </ul>	Policy MitEx3
<ul style="list-style-type: none"> <li>The transaction must be completed within 24 calendar months to the day of the surrender or expiry of the original licence. Any attempt to obtain a licence after that period, will be treated as a normal grant request and dealt with according to the normal requirements of a grant application, including any restrictions on the issue of new plates applicable at the time of the new application.</li> </ul>	Policy MitEx4
<ul style="list-style-type: none"> <li>A new issue hackney carriage vehicle licence can be issued for a suitable vehicle qualifying as a replacement for the last vehicle associated with the expired or surrendered licence, subject to compliance with the replacement vehicle policies and any requirements of the CAZ applicable at the time of application.</li> </ul>	Policy MitEx5
<ul style="list-style-type: none"> <li>The transaction will be a new licence application and the fees charged will be those appropriate to a new licence application at the time of the transaction.</li> </ul>	Policy MitEx6
<ul style="list-style-type: none"> <li>All normal requirements for the issue of a licence will apply, including but not limited to MOT, insurance, log book, age and emission standards applicable at the time of the transaction.</li> </ul>	Policy MitEx7
<b>Vehicle Testing – ALL Vehicles</b>	
All vehicles are subject to a standard MOT test to determine mechanical fitness and a more stringent supplementary test dealing with the vehicle's condition, appearance and suitability prior to licensing.	LGMPA 76 s48
An MOT certificate presented for the purpose of replacement of a vehicle or the renewal or granting of a licence must be less than ten weeks old at the time of the transaction, that time period to be calculated from the date of inspection.	Policy Veh2
The law provides that a private hire vehicle cannot, in its type, design or identification, lead anyone to believe that it is a hackney carriage.	LGMPA 76 s48(1)(a)(ii)

<b>Private Hire Operators</b>	
All Birmingham licensed operators must operate from premises within the City boundaries.	LGMPA 76 S46
Operators' fares are not regulated but each operator is required to ensure that their particular charges are displayed or available on request to each person travelling in a private hire vehicle.	(new combined condition 12)
An applicant for the grant of or renewal of an operator's licence will be asked to disclose details of any previous convictions and also an applicant for the grant of an operator's licence will be asked for details of any previous experience of working within the private hire industry including any other licences held, either currently or previously and whether any such licence has ever been revoked or suspended for any reason..	Policy Op1
Planning permission must be obtained for the premises where the operation is to be based, unless the applicant can provide confirmation from the Planning Department that such permission is not required.	Policy Op2
The records to be maintained include records of all journeys undertaken, and information and documentation relating to the vehicles and drivers operated, together with their "call signs".	LGMPA 76 s56
The fee payable for an operator's licence reflects the structure of the operation and the number of drivers and vehicles managed, in that it is set according to the officer time afforded to the licence. This fee is payable at the time the application is submitted.	Policy Op3
Renewal applications for operator licences must be submitted to the Licensing Office at least 14 days before expiry, fully completed and with all necessary accompanying paperwork.	Policy Op4
Failure to comply with this requirement may prevent a new licence from being issued on or before the expiry of the old licence.	Policy Op5
<b>Private Hire Operator Door Signs</b>	
Operators must provide a pair of appropriate door signs for each vehicle operated by their company and take steps to ensure drivers fix the signs in the centre of the front doors of their private hire vehicles, whenever employed on a job or available for dispatch.	Policy OpSign1
Operator Door signs may be of such design as the operator deems appropriate, subject to compliance with the following requirements.	Policy OpSign2
<ul style="list-style-type: none"> <li>The sign must include the company name as displayed on the licence certificate.</li> </ul>	Policy OpSign3
<ul style="list-style-type: none"> <li>The sign must include the phrase BE BOOKED, BE INSURED, in block capital letters using as a minimum 120 point Arial font (30mm in height) in a contrasting colour, so as to be easily seen.</li> </ul>	Policy OpSign4
<ul style="list-style-type: none"> <li>The sign must not be designed either in colour or style, to mimic the sign used by another operator in Birmingham or any surrounding authority</li> </ul>	Policy OpSign5
<ul style="list-style-type: none"> <li>Any new sign must be approved by officers before being issued for use on vehicles. As such it is recommended a draft copy be submitted for approval before signs are printed. A sign considered inappropriate by officers, must not be issued to drivers.</li> </ul>	Policy OpSign6
<b>Committee Policies Relating to Hackney Carriage and Private Hire Drivers</b>	
An applicant for a hackney carriage or private hire driver's licence must have held a full DVLA driver's licence for at least two continuous years.	Policy Dri1
<b>Disqualification from Driving</b>	
The Licensing Service will not be disposed to grant new applications or applications for renewal of hackney carriage or private hire driver's licences from persons who have been disqualified from driving until such time that such applicants have gained sufficient recent driving experience and become re-acquainted with driving conditions following reinstatement of DVLA licences; further that the period of further driving experience should be at least equivalent to the	Policy Dri2

period of disqualification. For example, a driving disqualification of six months will mean a rehabilitation period of six months from the date the DVLA licence is reinstated. However, a rehabilitation period may be reduced at the discretion of the Committee where an applicant has successfully completed an approved driving course as part of the sentence.	
<b>Driving Offences Associated with Drink or Drugs</b>	
The Licensing Service will not be disposed to grant or renew applications for licences to drive hackney carriage or private hire vehicles where the applicant has been convicted of a driving offence associated with drink or drugs under the Road Traffic Acts for the following periods, following reinstatement of the DVLA driving licence In the case of disqualification a minimum of two years if the period of disqualification is longer Policy Dri2 will apply. two years where there is no disqualification.	Policy Dri3

<b>Plying For Hire: First and Any Subsequent Offences</b>	
Drivers convicted of a first offence of plying for hire, and driving with no insurance should be revoked.	Policy Dri4
Drivers convicted only of plying for hire should be subject to suspension for a minimum period of six months for the first offence.	Policy Dri5
For any subsequent offence, consideration should be given to the ultimate penalty of revocation of a drivers licence.	Policy Dri6
<b>Refusal of Applicants with a Conviction for any Sexual Offence</b>	
An applicant with a conviction for any sexual offence should normally be refused.	Policy Dri6
<b>An Applicant Refused or Revoked by another Authority</b>	
Where an applicant has had a licence refused or revoked by another local authority, that application shall be referred to and determined by the Licensing Sub-Committee.	Policy Dri7
<b>Further Applications from Applicants or Drivers Refused or Revoked</b>	
An application for the grant of a hackney carriage or private hire driver's licence must be referred to the Licensing Sub-Committee for determination under any of the following circumstances:	Policy Dri8
<ul style="list-style-type: none"> <li>• application previously refused;</li> </ul>	Policy Dri9
<ul style="list-style-type: none"> <li>• licence previously revoked or refused upon renewal;</li> </ul>	Policy Dri10
Further, an application will not be considered within 12 months of the date of refusal, revocation or unsuccessful appeal, whichever is the later.	Policy Dri11
<b>Refusal of Applicants with a Conviction for a Drugs Related Offence</b>	
An applicant with a conviction for a drug-related offence should normally be refused.	Policy Dri12
<b>Failure of Three or More Knowledge Tests per Application</b>	
Where an applicant has failed three knowledge of the city tests in connection with an application for a hackney carriage or private hire driver's licence, that application will be refused on the grounds that the person is not considered to be a fit and proper person to hold such a licence.	Policy KT6
An applicant may re-submit an application for the grant of a driver's licence one year after the date of the third knowledge test. This application will be treated as a new application and the applicant must undertake and pass the appropriate tests.	Policy KT7

Failure of Three Driving Tests per Application	
Where an applicant has failed three driving tests in connection with an application for a driver's licence that application will be refused on the grounds that the applicant is not considered to be a fit and proper person to hold such a licence.	Policy DT3
An applicant may re-submit an application for the grant of a driver's licence one year after the date of the third driving test, however, should a further failure occur this application will be presented for consideration in accordance with the scheme of delegations	Policy DT4

Working Dogs	
Since March 2001 licensed hackney carriage and private hire drivers in England have been under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers can apply for an exemption from the duty on medical grounds if they have a condition that is aggravated by contact with dogs to allow them to continue in the trade. Drivers must comply with the requirements of the exemption.	EA 2010 s168-171
Wheelchair Accessibility	
licensed hackney carriage and private hire drivers must: <ul style="list-style-type: none"> <li>• transport wheelchair users in their wheelchair</li> <li>• provide passengers in wheelchairs with appropriate assistance</li> <li>• charge wheelchair users the same as non-wheelchair users</li> </ul>	EA 2010 s165
Suspension, Revocation and Refusal to Renew Licences	
A hackney carriage or private hire vehicle licence may be subject to suspension, revocation or refusal, or renewal, by the Licensing Sub- Committee, on the following grounds: <ul style="list-style-type: none"> <li>• The vehicle is unfit for use as a hackney carriage or private hire vehicle.</li> <li>• Any offence or non-conformity with the legislative provisions by either the operator or the driver.</li> <li>• Any other reasonable cause.</li> </ul>	
A hackney carriage or private hire driver's licence may be suspended, revoked or refused on renewal the following grounds: <ul style="list-style-type: none"> <li>• Since the grant of the licence the driver has been cautioned or convicted of an offence involving drugs, dishonesty, indecency or violence.</li> <li>• Any offence or non-compliance with the legislative provisions by the driver.</li> <li>• Any other reasonable cause.</li> </ul>	LGMPA 76 s61
In all the above cases, and where applicants for the grant of a licence have been refused, there is a right of appeal against the decision to the Magistrates' Court. The outcome of all appeals is reported to the Licensing and Public Protection Committee on a regular basis.	LGMPA 76 s61-63

#### Immediate Action on the grounds of Public Safety:

Where information is received regarding a licensed driver which indicates there may be an immediate risk to public safety, that information will be shared with the Chair of the Licensing and Public Protection Committee to consider the immediate suspension or revocation of the driver's licence. Such action to be reported to the next available Licensing and Public Protection Committee as part of the Actions Taken by the Chair between Meetings report.

Any decision to suspend or revoke will be communicated to the driver as soon as is reasonably practicable by way of a letter, ordinarily hand delivered by Enforcement Officer(s).

It is not possible to reinstate a licence after revocation without a successful appeal. In the event that the allegations are found to be completely unproven, i.e. a case of mistaken identity or other verified information which exonerates the driver completely, the matter will be put to the Chair to consider a 'fast-track' grant application, in order to grant a 'new' licence, for the duration of the remainder of the previous licence, and negating the requirement for additional tests etc. This negates the need for a costly and time-consuming appeal, and enables the driver to be back on the road in the shortest possible time. Matters which are less definitive will be referred for consideration in accordance with the scheme of delegations, notwithstanding the driver's right to appeal to the courts.



## **SCHEME OF DELEGATIONS (HCPH)**

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Setting of Fees and charges	All Cases		
Agree standard conditions i.e. vehicle / driver/operator etc.	All Cases	Requests for exemption from standard conditions may be considered by sub committee – currently delegated to Licensing Manager (COVID)	
When a hackney carriage vehicle licence has expired and more than one calendar month has elapsed			any attempt to re-licence the vehicle
Where a private hire vehicle is converted to LPG (Liquid Petroleum Gas)			Providing the installation is conducted by a UKLPG approved installer or has been inspected and approved by a UKLPG installer, so that the vehicle details are listed on the UKLPG Register.
<b>AUTHORITY TO SUSPEND, REVOKE OR REFUSE TO RENEW OR REFUSE TO GRANT ANY LICENCE OR APPLICATION:</b>			
in the case of a licensed vehicle being found to be in contravention of legislation,			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the officer is not satisfied as to the fitness of the vehicle, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the officer is not satisfied as to the accuracy of the taximeter, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the vehicle does not have adequate insurance cover, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the vehicle is unroadworthy or in a dangerous condition.			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if an officer is not satisfied as to the fitness of a driver following a medical report from the Occupational Health Service.			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847. Where appropriate, such decision will be with immediate effect



Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub- Committee Currently delegated to Licensing Manager (or above)	Officers (Senior Licensing Officer or above)
Where the applicant has 11 points on their DVLA licence or a conviction or caution for an offence that does not fall within the category of drugs, violence, dishonesty or of a sexual nature.			All Cases
Where an applicant has cautions over two years old, such application will be granted.			All Cases
Where an applicant has a conviction(s) for dishonesty, whatever the sentence, including a prison sentence, then such application will be granted provided at least ten years has lapsed since the last conviction for dishonesty.			All Cases
Where an applicant has an absolute discharge for any offence, with no other offences, such application will be granted.			All Cases
Where an applicant has failed 3 verbal communication tests, or 3 Knowledge tests, or 3 driving tests, then such application will be refused.			All Cases
Where an applicant has previously been refused or his/her licence revoked, whether by Birmingham City Council or another Local Authority, any further application will be refused within a 12 month period starting from the date of the refusal/revocation of the previous licence.		All Cases	
Where a private hire driver is convicted for plying for hire (first offence), then their private hire driver's licence will normally be suspended for a minimum period of 6 months.		All Cases	
Where a private hire driver is convicted for plying for hire and no insurance, then their private hire driver's licence will normally be revoked.		All Cases	
Grant/renewal of a licence where a driver is convicted of a drink/drug related driving offence or has been subject to a driving ban		All Cases	
Renewal of a drivers licence after the late renewal period where the circumstances for the lateness are on medical grounds only. (late renewal fee applies)			All case

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub- Committee	Officers (Senior Licensing Officer or above)
When confirmation is received to the effect that the holder of the licence has been banned from driving by a Court of Law and is no longer in possession of a valid DVLA driving licence.			All Cases
Approval of the installation of safety screens in private hire vehicles, where MIRA testing and approval, or an equivalent European test certificate can be produced for the proposed screen			All Cases
Approval of certain standard exemptions to the current licence conditions for private hire operators and vehicles, where the applicant can demonstrate that the exemption is justified (limousines, stretched and special event vehicles carrying out private hire work within the city)			All Cases
Grant of licence where the applicant has 6 points on their DVLA licence or a conviction or caution for an offence that does not fall within the category of drugs, violence, dishonesty or of a sexual nature.			Licensing officer and above
Consideration of suitability of evidence as to good character where applicant is from a failed state and cannot comply with requirement to provide a DBS.			All cases

## **GENERAL LICENSING POLICY DOCUMENT**

### **(Matters not addressed by Statement of Licensing Policy, Statement of Gambling Principles or Sexual Entertainment Policy)**

The General Licensing Team is responsible for a wide range of licensing functions, which include sales of alcohol, late night refreshment, regulated entertainment, sex establishments, charitable collections, scrap metal and gambling premises.

Administration of the Animal Welfare licensing function is under the remit of Environmental Health. The Senior Animal Welfare Officer and the administration team are located at Garretts Green. Inspection and enforcement is carried out by the Senior Animal Welfare Officer.

#### Massage and Special Treatment Establishments

Birmingham City Council Act 1990.

- Only a very small number of local authorities in the country have similar powers. The legislation was originally aimed at controlling massage and various treatments which could carry a health and safety risk to the public, e.g. water borne disease and exposure to UV rays. The Act has led to a whole range of premises being included, from health and fitness centres to hairdressing salons.
- Anyone conducting an establishment for treatment by way of massage is required to be licensed; other forms of treatment also include Solaria, Therapeutic Spa Baths, Sauna, Turkish Baths, Aromatherapy massage and Herbal Baths.
- Each licensed premises is subject to an annual visit by a Licensing Enforcement Officer.
- When considering applications for licences consultation is carried out with West Midlands Police. There are also statutory requirements placed on applicants to post notices on the premises giving passers-by opportunity to comment or object.
- All licences are subject to a set of conditions which regulate the manner in which the premises must be operated.

<b>Sex Establishments</b>
Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the "Act").
The Act gives local authorities the adoptive powers to control sex establishments which are defined as a sex shop, a sex cinema or a sexual entertainment venue (SEV)
<b>Sex Shops and Sex Cinemas</b>
A sex shop is a premises used for a business, which consists, to a significant degree, of selling what are termed sex articles. These commonly include magazines, DVDs and different forms of sex aids.
A sex cinema is any premises used to a significant degree for showing of films, which are concerned primarily with, or relate to, or are intended to stimulate or encourage sexual activity.
The key words in the statutory definition are the words "to a significant degree". This is not defined by the Act but case law suggests 'significant' implies a higher standard than 'more than trifling'. In almost all cases the ratio between the sexual and other aspects of the business would be material: the absolute quantity of sales, the character of the remainder of the business, the nature of the display and the nature of the articles themselves are all considerations. No single factor is decisive and the Committee must decide which considerations are material and what weight to attach to them.
When considering applications for licences consultation is carried out with West Midlands Police, Ward Councillors and the Licensing Enforcement Team. There are also statutory requirements placed on applicants to advertise in the local press and post notices on the premises giving passers-by opportunity to comment or object.  The criteria for consideration are: <ul style="list-style-type: none"> <li>• the suitability of the applicant;</li> <li>• whether the person applying will actually be responsible for operating the business</li> <li>• the location and suitability of the premises; and</li> <li>• whether the number of sex establishments within that locality is equal to or exceeds the number which the Council considers appropriate for the area.</li> </ul>
Other than where the suitability of the applicant is concerned, there is no automatic right of appeal against a decision to refuse a licence and, therefore, an applicant's only remedy would normally be by way of judicial review.

## Sexual Entertainment Venues

A Sexual Entertainment Venue (SEV) is defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.

The meaning of ‘relevant entertainment’ is “any live performance or live display of nudity which is of such nature that 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)”.

These definitions would apply to the following forms of entertainment as they are commonly known: lap dancing; pole dancing; strip shows; peep shows; and live sex shows.

The legislation provides exemptions from the definitions of SEVs as follows:

- Sex shops and sex cinemas (these 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:

- no relevant entertainment has been provided on more than 11 occasions within a 12 month period
- no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
- no such occasion has lasted longer than 24 hours.

On 12th October 2010, Birmingham City Council resolved to adopt the provisions to control SEVs. A separate Sexual Entertainment Venue Policy, to apply to the whole of Birmingham, was published and became effective from 3 January 2011. This Policy is was revised in October 2014 and was effective since 1 November 2014. The policy is currently under review.

The Sexual Entertainment Venue Policy document contains full details of the licensing regime applicable to Birmingham including application procedures, standard conditions and delegations. The Standard conditions were revised with effect from 1st November 2014 (on all licences granted or renewed after that date).

<b>Charitable Street Collections</b>	
Police, Factories etc., (Miscellaneous Provisions) Act 1916.	
The Act prescribes Regulations, which govern the conduct of collections being made for charitable or other purposes in any street or public place.	
This could include a collecting box or tin, or even the sale of any articles or magazines where there is a representation at the point of sale that part of the proceeds are being applied to charitable or other purposes.	
Organisations do not have to be a registered charity but checks are made to ascertain that the organisation is genuine, and for new organisations or charities, copies of the latest accounts may be requested. Details of the promoter are forwarded to the West Midlands Police to afford them the opportunity to comment on the suitability of the applicant. The promoter of the collection or permit holder is also required to submit a return within one month of the collection taking place to show the amount collected and details of how the proceeds have been applied particularly on expenses.	
In September each year, an advertisement is placed on the Birmingham City Council website inviting applications to be lodged by 1 November for the following year. In order to allow for a fair opportunity of collection dates for all prospective charitable organisations, applications are restricted to either one collection that covers the “whole city” or two separate dates for a selection of districts.	
All applications received by 1 November each year are given priority for dates and areas and efforts are made to allocate preferred dates to each of the individual organisations. To avoid any clash of interest permits are not granted to two separate organisations to collect in the same place on the same day. For those organisations applying later than 1 November, applications are allocated on a first come first served basis provided that the requested date and area is still available.	
“Face to face” fundraising usually relates to the collection of direct debits / standing orders from shoppers/pedestrians. Such appeals are normally conducted by professional fundraising companies that are remunerated by charities. Where a professional fundraiser is involved in a charitable street collection on behalf of a charity, our procedures require that a copy of the statutory fundraising agreement is submitted with the application as this gives details of the costs of the fundraising.	
Under the Model Street Collection Regulations, “no payment shall be made out of the proceeds of a collection, directly or indirectly, to any other person connected with the promotion or conduct of the collection other than payments which have been specifically approved by the Council.”	
All such face-to-face street collection applications are, therefore, referred to Committee for consideration with the expectation that an applicant demonstrates how any potential donors are made fully aware of the remuneration costs involved and the relationship between the company and the charity.	
There is no right of appeal against the refusal to grant a street collection permit.	
The Charities Act 2006 was introduced to change the way in which charitable collections were regulated, however, the Act was implemented in phases and to date the provisions relating to public charitable collections have still not been introduced.	

It should be noted that a part of the Charities Act 2006 that was introduced, amended the Charities Act 1992 in relation to the statement required to be made by professional fundraisers when raising money for particular charitable institutions. The statement must give the method by which the fundraiser's remuneration in connection of the appeal is determined and the notifiable amount of that remuneration.

### **House to House Collections**

House to House Collections Act 1939.

Whereas street collection permits are normally issued to cover a period of one or two days, a house to house collection licence can be granted for any period up to one year.

With regard to vetting and checking to ascertain whether the organisation applying is genuine or not, the same procedures apply as for street collections.

There is a requirement for the promoter of the collection to make a return following the collection.

Collections generally take place from door to door or from one public house to another.

Some of the larger well-known charities such as British Red Cross, Christian Aid, Shelter, RNLI etc., have a Government exemption from having to apply for a licence, but most of the smaller, and particularly local groups and organisations need a licence before they can collect money (or articles which they intend to give away or sell later), from door to door.

As with the procedure for street collections, where a charitable organisation is utilising the services of a professional fundraising company, our procedures require that a copy of the statutory fundraising agreement is submitted with the application.

Unlike street collections, there is a statutory right of appeal against the refusal to grant a house to house collection licence. In this case, the right of appeal is to the Secretary of State, and the grounds for refusal are set out in the Act.

### **Skin Piercers**

Local Government (Miscellaneous Provisions) Act 1982 Part VIII

Local Government Act 2003

Local Government (Miscellaneous Provisions) Act 1982 Part VIII applies to the registration of persons operating at premises to provide the following types of skin piercing: Acupuncture, Tattooing and Electrolysis.

Byelaws were introduced in 1985 to regulate these activities.

The Local Government Act 2003 came into effect on 1 April 2004 and introduced the registration and inspection of all businesses which carry out cosmetic skin piercing and semi-permanent skin colouring.

Byelaws were introduced in 2006 to regulate these activities.

Inspection and enforcement is carried out by officers of Birmingham's Environmental Health Service.

This is purely a registration function, with no provision for objection or refusal. Registration Certificates are issued by Senior Licensing Officers or above.

### **Village Greens**

The Commons Act 2006

The Local Authority is the 'Registration Authority' for the purposes of the legislation.

Applications can seek the inclusion in the register of town and village greens of land which is claimed to have qualified for registration by virtue of continuous usage by inhabitants of the locality for lawful sports and pastimes as of right over a period of 20 years. In order for an application to succeed it must satisfy all parts of the statutory test.

Applications are reported to the Licensing and Public Protection Committee.

In cases where objections give rise to a serious dispute of fact between the applicant and the objectors, a public inquiry may be held before an independent inspector, who will then put forward a recommendation to the Registration Authority.

The final decision will be taken by the Licensing and Public Protection Committee, or a Licensing Sub-committee if so delegated.



## Animal Welfare

### The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

The Regulations came into force 1 October 2018 and require inspection by a suitably qualified inspector prior to issue of a licence. The Regulations introduced numerous changes including powers to the local authority to suspend, vary or revoke a licence. There is a new star rating system where operators can achieve a higher standard and therefore a longer licence period. There are also general and specific conditions provided in relation to the following activities;

Anyone involved in the business of providing accommodation for other people's animals (being cats or dogs). Licensed premises include home dog boarders, where individuals board dogs in their own home, ~~and also~~ dog day care centres as well as commercial boarding kennels and catteries.

Dog Breeding – the regulations ~~now~~ require a licence where a person breeds 3 litters of puppies in any 12-month period. ~~(reduced from a previous 5 litter test).~~ However a licence is also required ~~or~~ if any person is in the business of breeding and selling dogs, this is now deemed appropriate where a person breeds 2 litters in any 12 month period. This is due to the high price of puppies being sold which would take the income derived from breeding dogs well above the £1,000 threshold, as set out by the Regulations. All new licence applications are required to be inspected by a veterinary surgeon.

Selling Animals as Pets – pet shops are now required to keep additional documentation in respect of animals' health and welfare, provide environmental enrichment for animals and the minimum cage sizes for animals has been increased.

Exhibiting Animal – the regulations changed the previous certificate of registration requirement for performing animals into a formal licensing arrangement and tightens up the scope to reflect the modern use of animals, e.g. mobile zoos, ponies for parties.

Riding Establishments – any person who is in the business of hiring out horses or ponies for riding or instruction must be licensed. When considering applications there is a requirement for an independent report to be obtained from an approved veterinary surgeon. An applicant for the grant or renewal of a licence must undergo or present an enhanced Disclosure and Barring Service (DBS) record check (not more than 3 months old) with the submission of an application form.

### Dangerous Wild Animals

#### The Dangerous Wild Animals Act 1976 (as amended)

The Act contains a schedule detailing a variety of animals for the purposes of the Act e.g. venomous snakes and certain monkeys etc.

Zoos, pet shops and circuses are exempt from the provisions of the Act. There are no current licences in place; however, the Act provides powers to the Council to seize any animal being kept on premises which are unlicensed.

There is a requirement for an independent report to be obtained from a veterinary surgeon before a licence can be granted.

**Zoos****Zoo Licensing Act 1981**

This Act classes a Zoo as any establishment, other than a circus or pet shop, where non-domesticated animals are kept for public exhibition.

Licences are initially granted for four years and then renewable every six years.

Zoos must observe standards of modern zoo practice which have been specified by the Secretary of State.

Inspections are carried out annually by the Senior Animal Welfare Officer, however, at least twice during the term of the licence; formal inspection must be carried out by Secretary of State appointed inspectors.

**Notices**

Where applications carry a requirement to advertise in the local press, it is recommended advertisements are placed in The Birmingham Mail, The Birmingham Post, or, for applications relating to premises in Sutton Coldfield, the Sutton Observer.

Policy  
Notice1

Should applicants wish to use an alternative publication they are advised to consult with officers at the Licensing Service.

In circumstances where Birmingham City Council Licensing Service is required to publish notices in the local press such notices will be placed in the Birmingham Mail or the Birmingham Post.

Policy  
Notice2

**Film Classification**

On 21<sup>st</sup> March 2012 Birmingham City Council's Licensing Committee agreed a formal procedure for dealing with requests to exhibit films that have no certificate from the British Board of Film Classification (BBFC).

Requests for film classification must be submitted 28 days prior to the proposed screening, be made in writing and give details of the following:

- where and when the film is to be exhibited,
- intended audience profile,
- suggested film classification,

**All** requests must be accompanied by a brief synopsis and a copy of the film in standard DVD format.

Where Birmingham City Council has determined the classification of a film it will be subject to the following standard conditions:

- *A notice must be displayed both inside and outside of the premises to ensure that persons entering are readily aware of the classification attached to any film or trailer.*
- *No person is to be admitted to any part of the programme unless they are of the age permitted by the relevant classification. This condition does not apply to members of staff under the relevant age provided that the prior written consent of the person's parent or legal guardian is obtained.*

#### General information

If a premises licence, issued under the Licensing Act 2003 authorises film exhibitions, the licence holder **must** comply with any recommendation by the British Board of Film Classification (BBFC), or if the film has no classification, then in accordance with any recommendation by the Licensing Authority.

A Licensing Authority can either determine the appropriate classification of any film which has not been the subject of classification by the BBFC; or determine a different classification to that determined by the BBFC to apply generally in Birmingham.

The BBFC classifies films in the following way:

U	Universal (suitable for all).
PG	Parental Guidance (some scenes may be unsuitable for young children).
12	Suitable for age 12 years and over.
12A	Suitable for age 12 years and over, or younger when accompanied by an adult.
15	Suitable for age 15 years and over.
18	Suitable for 18 years and over.

#### Exemptions

The Licensing Act 2003 sets out exemptions for the provision of regulated entertainment from requiring a licence under the Act:

- Film exhibitions for the purposes of advertisement, information or education; if the sole main purpose of the exhibition is to demonstrate any product, advertise any goods or services, or provide information, education or instruction, even if they simultaneously entertain;
- Film exhibitions in museums and art galleries; if the exhibition consists of or forms part of an exhibition put on show for any purpose of the museum or art gallery, even if they amount to the provision of entertainment.

## Enforcement

Licensing Enforcement Officers and Licensing Compliance Officers are issued with an identity card and authorisation. They enforce the provisions of the legislation for which they are authorised.

This includes but is not limited to:

- Birmingham City Council Act 1990
- Equalities Act 2010
- Gambling Act 2005
- House to House Collections Act 1939
- Licensing Act 2003
- Local Government Act 1972 (Section 222)
- Local Government Act 2003
- Local Government (Miscellaneous Provisions) Act 1976 Part II
- Local Government (Miscellaneous Provisions) Act 1982 Part I, II, VII
- Police Factories, etc. (Miscellaneous Provisions) Act 1916 (Street Collections)
- Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002
- Private Security Industry Act 2001
- Town Police Clauses Act 1847 and 1889
- Hackney Carriage Byelaws,

Officers undertake inspections, offer advice, deal with requests for assistance, investigate complaints and take part in planned exercises including operations with other enforcement agencies.

The premises and individuals licensed under the above Acts will be risk rated and inspected as and when appropriate in line with that rating, to ensure compliance with the legislation and any conditions attached to their licences. Inspections may also take place upon the grant, renewal or transfer of a licence or upon the receipt of a complaint.

Private hire operators will be risk rated and inspected an appropriate number of times during the year. Officers will check that the documents and records relating to drivers, vehicles and bookings are as prescribed by their conditions of licence. All operators will receive at least one inspection during the course of the operational year.

Stop check exercises are regularly undertaken with the assistance of the Police. Licensed vehicles are stopped and inspected to ensure that they and their drivers are complying with conditions of licence and are safe to carry members of the public. If defects on the vehicle are noted such as loose radios, bald tyres or defective lights, the plate licence may be suspended until the issues are rectified.

As well as routine inspections and high visibility exercises, Officers undertake exercises, where they pose as members of the public and make test purchases. Again this is to check licensees are complying with the legislation and their conditions of licence.

Officers also work jointly with agencies such as the Police and DVSA (formerly VOSA).

Further information can be found within the Regulation and Enforcement, Enforcement Policy.

## SCHEME OF DELEGATIONS

(For matters not addressed in individual policy documents)

Miscellaneous	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Massage & Special Treatment Licence		If objection received	If no objection received
Skin piercing registration			All Cases
<u>face-to-face</u> street collection applications		All cases where collectors are paid, or where fundraisers are paid directly or indirectly from proceeds of collection	All other cases
House to House collections applications		Cases referred by Licensing Officers for determination	All cases (unless application raises concerns i.e. allocation of proceeds)
Village Green Consideration of application	All cases		
Village Green – instruction of independent inspector	All cases		
Village Green – determination of application	All Cases		

Matter to be dealt with:	Decision to be made by:		
<b>The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018</b>		Environmental Health Operations Manager (or above)	Senior Animal Health and Welfare Officer
Grant			All cases
Refusal		All cases	
Variation		All cases	All cases
Suspension		All cases	
Revocation		All cases	

**DELEGATION OF FUNCTIONS REGARDING THE LICENSING ACT 2003****(Extract from Statement of Licensing Policy)**

Subject	Sub Committee	Officers
Application for personal licence.	If a Police objection is made.	If no objection.
Application for personal licence with relevant unspent convictions.	If a Police objection is made.	If no objection
Application for premises licence/ club premises certificate.	If a relevant representation is made.	If no relevant representations.
Application for provisional statement.	If a relevant representation is made.	If no relevant representations.
Application to vary premises licence/club premises certificate.	If a relevant representation is made.	If no relevant representations.
Request to vary designated premises supervisor.	If a Police objection is made.	All other cases.
Request to be removed as designated premises supervisor.		All cases.
Application for transfer of premises licence.	If a Police objection is made.	All other cases.
Application for interim authorities.	If a Police objection is made.	All other cases.
Application to review premises licence/club premises certificate.	All cases.	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases.
Decision to object when Local Authority is a consultee and not the relevant authority considering the application.		All cases.
Determination of application to vary premises licence at community premises to include an alternative licence condition	If a Police objection is made.	All other cases.
Determination of a Police objection to a STANDARD temporary event notice.	All cases.	

Application for minor variation of premises licence/club premises certificate		All cases ( for decision whether to consult other Responsible authorities and for Determination)
Determination of a Police / EH objection to a temporary event notice.	All cases except where objection requires inclusion of conditions from existing premises licence and applicant is in agreement	Where objection requires inclusion of conditions from existing premises licence and applicant is in agreement
Attachment of Conditions from existing premises licence to TEN	Where applicant objects to conditions	If applicant is in agreement
Issuing of Counter notice for STANDARD TEN	Following determination hearing	Where limits are exceeded
Issuing of counter notice for Late TEN		All cases
Suspension of licence for non payment of fees		All cases
Requests for a change to the film classification awarded by the BBFC	All cases	
Requests for classification of films where there is no BBFC classification	Where there is concern about the content of any film submitted or the proposed exhibition of the film	Where appropriate procedure is followed and no concerns as to content
Request for implementation of Early Morning Restriction Order	FULL Committee	
Request for imposition of Late Night Levy	Full City Council	
Statement of Licensing Policy	Full City Council	
Cumulative Impact Assessment	Full City Council	

**DELEGATION OF FUNCTIONS REGARDING THE GAMBLING ACT 2005****(Extract from Statement of Gambling Principles)**

Subject	Full Council	Licensing & Public Protection Committee	Licensing Sub-Committees	Officers
Three year licensing policy	X			
Policy to permit casino	X			
Fee setting (when appropriate)		X		
Application for premises licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Gambling Commission	Where no representations received or representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Review of a premises licence			X	



Application for a club/gaming club machine permits			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits				X
Application for other permits			Where an application is received to operate more than 4 gaming machines on an alcohol licensed premises	Where an application is received to operate 4 or less gaming machines on an alcohol licensed premises
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Decision to attach/exclude a premises licence condition			X	
To administer and carry out all other functions not specifically mentioned in the delegation to the Licensing & Public Protection Committee, which are capable of being delegated to an officer as provided in the Gambling Act 2005 and any regulations made under that Act, together with any related functions				X

**Sexual Entertainment Venues**

(From SEV Policy)

**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. <b>Decision to be made by:</b>			
<b>Matter to be dealt with:</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers (Senior Licensing Officer or above)</b>
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

**Amendments in response to COVID-19.**

Reference	Service Area	Amendment	Proposal
1	General Licensing (all)	Applications for licences administered by the General Licensing team are to be submitted electronically, either using the EGov platform, or by email.	continue
2	General Licensing (LA2003)	Details of new Licence Applications (LA2003) are to be circulated to elected members and posted onto the website in acknowledgement of the potential impact of lockdown arrangements on the efficacy of the 'blue notice' process.	continue
3	General Licensing  MST and Sex Establishments	Where a Massage and Special Treatment or Sex Establishment Licence expires during the period of imposed restriction ('lockdown'), they will be permitted to apply for a 'late' renewal at the standard renewal fee after the period of lockdown has ceased. Such allowances do not supersede the requirement to hold a current licence if they are able to carry on licensable activities.	To cease  (see paragraph 5)
4	HCPH	Where a driver or vehicle licence due for renewal during this period of imposed restrictions ('lockdown') expires, the licence holder will, once the lockdown has ended, be permitted to apply for a 'late renewal'. Once the lockdown is over, and trade begins to recover, licence holders will then be able to submit an application to, to all intents and purposes, resurrect their previous licence without undertaking additional tests. They WILL still be required to fulfil any suitability requirements as to MOT's, medicals and DBS checks where appropriate. <i>such a transaction would be carried out at the standard renewal fee and will not be required to be put before a committee for determination.</i>	Continue  (3 month review)
5	HCPH	Where a hackney carriage vehicle licence expires as a result of the circumstances detailed above, the licence holder will be permitted to 'renew' the licence unimpeded by the moratorium. There will be no effective increase in the number of vehicles in operation, and so the moratorium should not be applied in these circumstances.	continue
6	HCPH-Delegations.	All hackney carriage and private hire matters ordinarily reserved to a sub-committee are delegated to a Licensing Manager panel (to be determined by an officer of GR 6 or above)	continue

		<p><b><u>Determining Hackney Carriage &amp; Private Hire Matters – the delegated process.</u></b></p> <ul style="list-style-type: none"> <li>• Licensing Officer produces report (as per normal sub-committee arrangements)</li> <li>• Licensing Officer sends report to the senior officer (GR6 or above) ‘the determining officer’ for initial consideration.</li> <li>• ‘the determining officer’ considers report and formulates some relevant questions (if applicable) with legal adviser where required.</li> <li>• Licensing Officer sends report and questions to the subject (driver/applicant etc) with a deadline by which to make written submissions <b><u>by email</u></b>. They can of course seek legal advice if they wish.</li> <li>• Licensing Officer sends original report and responses (if any) to the Determining Officer for determination.</li> <li>• Determining officer makes decision in consultation with Legal Services and notifies Licensing Officer (or sends supplementary questions where applicable)</li> <li>• Licensing Officer writes out to the person with the details of the decision and information as to rights of appeal.</li> </ul> <p>For the avoidance of doubt – any appeal would still be to the Magistrates’ Court as the decision is made on behalf of the Licensing Authority through delegated authority AND – as with any delegated matter, officers retain the option to refer matters to the sub-committee if particularly complex)</p>	
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### **GOOD PRACTICE AND PROCEDURE**

The following are points that your Committee should bear in mind when making decisions concerning individual licences and should be read in conjunction with the Members' Code of Conduct and the Member/Officer Protocol. They are based on the large number of legal cases in which the courts, including the European Courts, have considered different aspects of a local authority's licensing functions. However, your Committee should be aware that in certain cases there are additional requirements resulting from specific legislation.

#### **1. Political/Party Group Meetings**

Group meetings should be concerned with policy reports, not the discussion of individual licence applications etc. The use of a party political whip is inconsistent with the rules of natural justice and should be avoided by Councillors sitting on the Licensing and Public Protection Committee.

#### **2. Members**

Members should be mindful of the requirements concerning the disclosure of interests and when it is necessary for a member to vacate a meeting. In cases of doubt the Director of Legal Services, or his representative, should be consulted. Details are set out in the Council Constitution.

#### **3. Social Media**

##### **What are social media?**

Social media is the term to describe websites and online tools which allow people to interact with each other by creating their own content. The content could, for example, be blogs, videos or short messages, known as tweets, via twitter.

On social media sites users share information, discuss opinions and may create interest groups or pages. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

##### **Types of Social Media:**

- Blogging and microblogging – online journals – Twitter is an example of microblogging, where entries are limited to 140 characters
- Online Forums – people with similar interests sharing information and opinions – AccyWeb is an example

- Social networking sites – these facilitate connections between people who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example
- Video and photo publishing – sharing videos and photographs worldwide – Flickr is an example

#### **Some general legal issues:**

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may take a libel action against you. The same thing may happen if, for example, someone else publishes something libellous on your website, you know about it and don't take swift action to remove it. A successful libel claim could result in the award of damages against you,
- **Copyright** – Placing images or text on your site from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don't publish anything you are unsure about, or obtain prior permission. A successful claim for breach of copyright would be likely to lead to an award of damages against you.
- **Data Protection** – Do not publish the personal data of individuals unless you have their express permission.
- **Bias and Predetermination** – if you are involved in making licensing decisions, do not say anything through social media (or indeed anywhere) that suggests you have completely and irrevocably made your mind up on an issue that is due to be formally decided upon. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence and arguments, and were genuinely persuadable to a different view. If you weren't, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.
- **Wednesbury Unreasonableness** – members must also always be seen to be acting reasonably in relation to the Committee process and consideration of all applications; if detriment arises a Third Party may commence Judicial Review proceedings.

#### **Use of Social Media by Members of Committee**

- Although the use of Social Media can be an invaluable tool for a Member of the Council/Committee Member it is important that such usage is properly managed at all times and that particularly a clear distinction is maintained between Private usage and Member usage. It is important that Social Media is not perceived by any Third Party to interfere with the proper decision making process. Members are advised to exercise extreme caution before commenting on social media, or in the conventional press, on any licensing decisions which they are, or are likely to be involved in making. This is to ensure that their comments may not be interpreted to mean that members have already determined a licence application, which could be used against the local authority.
- The same applies to Council Members who are not members of the Licensing & Public Protection Committee, but whose comments or actions on social media could be

misinterpreted. If elected Members make any comments when representing residents who are objecting to licence applications they must not link their comments in any way to members of the Committee.

- During Committee hearings it is particularly important that mobile communication devices, including telephones and tablet computers or Social Media are not used, whether for research or communication purposes. The use of any form of Social Media or mobile telephones at Committee may lead to an inference of bias, pre-determination or Wednesbury Unreasonableness.

#### **4. The Applicant**

Ordinarily the applicant should be given the opportunity of being heard by your Committee before the application is determined, even if this is not an express requirement of the relevant statute. The applicant should also be allowed to be accompanied by a legal or other representative if they so desire.

#### **5. Third Parties to a Hearing**

Any person or body wishing to make representations or objections in respect of an application or notice should be given the opportunity to do so. Subject to any statutory restriction the nature of the representations or objections should be disclosed to the applicant in advance of the meeting so that they may consider their response. The identity of an objector should not be disclosed to the applicant without their consent, unless any statutory provision state otherwise.

#### **6. Disclosure of Information**

The applicant should be given prior knowledge of the nature of the Council's concerns, and of those of any objectors.

The extent of the disclosure should also be sufficient to avoid the applicant having to request an adjournment to allow time for proper consideration of the matters they are obliged to address.

#### **7. Evidence**

Each member of your Committee should be supplied with copies of every document that has been supplied both by and to the applicant and any third parties to the hearing. If any new documents are produced at the meeting, each party should have the opportunity to inspect them. In certain cases there may be statutory provisions which require another party's consent, if applicable, to new documentation being introduced at the meeting.

#### **8. Adjournments**

Any request for an adjournment should not be refused if to do so would effectively deny the applicant a fair hearing.

## **9. The Hearing**

The procedure is intended as a general framework to ensure the rules of natural justice apply and that a fair hearing is presided over by an “independent and impartial tribunal”. The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed:

- a. Members present should identify themselves so that the applicant may be satisfied that there has been no breach of the rule against bias.
- b. A licensing officer will outline the relevant details of the application or matter under consideration.
- c. Usually the applicant will present his or her case first, at the conclusion of which members may ask questions. A similar opportunity will then be afforded to any third party to a hearing making representations or objections to the application.
- d. The applicant should be given the opportunity to ask questions of those third parties.
- e. Once the licensing officer, the applicant and any third party to the hearing have given evidence and answered any questions, the third party shall first be given an opportunity to make brief closing remarks, and then the applicant to make their final closing remarks on the application under question. All parties should leave the room, so that only the Committee, the Committee Manager and the Director of Legal Services' representative remain.

During the hearing members must not discuss the merits of the case. This should be left until the applicant, any objectors and officers involved in the case have left the room.

The only members who may participate in the decision making are those who have seen and heard all the evidence and have been present for the subsequent discussion.

Once the applicant, any third party and officers have left the meeting they may be recalled to provide further information or clarification but all of them must return, not just the person from whom further information is required.



## **10. The Decision**

Once the Committee has reached its decision the parties must be recalled and informed verbally of the decision with the exception of applicants and drivers for a hackney carriage or private hire licence or personal licence who only receive the decision later in writing. If reasons for the decision are to be given, which will usually be the case, this will be done in writing at a later date. Notice of any right of appeal should also be given to the parties.



# **1 LICENSING COMMITTEE CODE OF PRACTICE FOR MEMBERS AND OFFICERS**

## **1.1 Purpose of This Code**

- i. This Licensing Code of Practice ('the Licensing Code') has been prepared to guide Members and officers in the discharge of the City Council's statutory Licensing functions. This Code will also inform potential applicants and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its Licensing powers.
- ii. The Licensing Code is in addition to Birmingham's Code of Conduct for Members, which was adopted by the City Council in June 2012. For the avoidance of doubt, when an Executive Member attends and participates in the decision-making of the Licensing Committee, s/he does so as a Member of the Committee and not as a Member of the Executive. Accordingly, s/he must, along with other Members of the Committee, exercise an independent mind on issues before the Committee.
- iii. The provisions of this Licensing Code are designed to ensure that Licensing decisions are taken on proper grounds, are applied in a consistent and open manner and that Members making such decisions are held accountable for those decisions. The Licensing Code is also designed to assist Members and officers in dealing with approaches from applicants or those who already have a relevant Licence/permit, etc.
- iv. Throughout this Code, reference is made to the Licensing Committee. This refers to the Licensing and Public Protection Committee ("LPPC"), in the context of its determination of applications for licences i.e where the Committee performs the functions of the Licensing Authority, rather than in the context of non-Licensing Authority decisions.
- v. Any reference to Licensing Committee equally refers to any Licensing Sub-Committee.

## **1.2 Context**

- i. This Licensing Code applies to both Councillors and officers– it is not therefore restricted to Licensing Committee members. The successful operation of the Licensing system relies on mutual trust and understanding of each other's role. It also relies on both Members and officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.
- ii. The Human Rights Act provides additional safeguards for citizens, and encourages the application of best practice. Article 6 is concerned with guaranteeing a right to

procedural fairness, transparency and accountability in the determination of civil rights and obligations.

- iii. This code must be read in conjunction with (where appropriate):
- The LPPC Policies, Procedures and Delegations;
  - The Statement of Licensing Policy;
  - Home Office Guidance (s182) – issued under S182 Licensing Act 2003;
  - The Statement of Gambling Principles and relevant guidance issued by the Gambling Commission;
  - The Sexual Entertainment Venue Policy;
  - Code of Conduct for Members;
  - Code of Conduct for officers.

### **1.3 General Considerations**

- i. In relation to Hackney Carriage and Private Hire applications (generally speaking) the Licensing Authority MUST NOT issue a licence to a driver, operator or vehicle proprietor unless they are satisfied the applicant is a fit and proper person.
- ii. In relation to Licensing Act matters, where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn, the licensing authority MUST grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act.
- iii. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations.
- iv. Birmingham City Council's [Code of Conduct for Members](#) (section C4) must be complied with throughout the decision making process, which includes mandatory requirements with regard to Member interests.
- v. The responsibility for declaring an interest rests with individual Members and officers of the Council. This Licensing Code outlines further rules applicable to the Licensing process in Birmingham.
- vi. Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. This applies equally to traditional forms of political management based on Committees and to models based on forms of executives or elected mayors. Officers advise Councillors and the Council and carry

out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to officers through a decision of the Council, the Executive or a Committee. A successful relationship between Councillors and officers can only be based upon mutual trust, respect, courtesy and understanding of each other's positions. This relationship, and the trust which underpins it, should never be abused or compromised.

- vii. Both Councillors and officers are guided by Codes of Conduct. Birmingham's [Code of Conduct for Members](#) (section C4) provides standards and guidance for Councillors. Employees are subject to the [Employees' Code of Conduct](#) (Section C6). In addition to these codes, a Council's standing orders set down rules which govern the conduct of Council business. There is also a Member / Officer Protocol that assists in defining the relation with both.
- viii. Birmingham's Code of Conduct for Members sets out the requirements on Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the Licensing process. Of particular relevance to Councillors serving on the Licensing Committee or Executive, or who become involved in making a Licensing decision, is the requirement that a Member must not use their position improperly for personal gain or to advantage friends or close associates.
- ix. The basis of the Licensing system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved.
- x. From time to time applicants or other parties may submit confidential information, for example a financial appraisal, or evidence from an ongoing criminal matter in relation to an application. Such information will be taken into account in relation to determination of the application, but such information may be exempt from the requirement from disclosure.

### **Public Speaking**

- xi. During public speaking at Licensing Committee, the following should not occur:-
  - Members should not cross-examine members of the public at any time;
  - Members should not ask leading questions of officers or members of the public as by way of introducing new facts to the debate;
  - Members should only ask relevant questions; and
  - Late evidence should not be introduced by speakers at Committee – unless authorised at the discretion of the Chairperson with the agreement of all parties.

## Conflicts of Interest

- xii. Some Members in general are more likely than others to be uncomfortable in the role of Licensing Committee Member owing to the combined pressures of their local business interests, the Ward Member advocate role, and the constraints of the Licensing system. Any potential licence-related background may also give rise to a perception by the public that they are more likely to be in favour of an application, even where they are determining cases completely impartially. In order to minimise the risk for the Council and the Member concerned, the Member in question should discuss their position carefully with the Assistant Director of Regulation and Enforcement and Monitoring Officer for the Council, to see whether it would be suitable for him/her to become a Member of Licensing Committee or if already a Member take part in the determination of any applications before them.

## 1.4 Lobbying and Attendance at Public Meetings

### General

- i. Given the requirement that Members of the Licensing Committee should exercise an independent mind to applications in accordance with the relevant considerations, Members must not favour any person, company, group or locality. Members can, of course, form and express a personal opinion on Licensing applications but they are advised to indicate that they will only form a final opinion about an application after full consideration of all the evidence, representations and submissions made. Members should be careful not to publicly commit themselves to a particular outcome on an application prior to its full consideration at Committee, as to do so could be perceived by others as the Member having closed his/her mind to hearing all the relevant considerations. If that were to happen, he/she should be asked by the Chairman of the Committee, the Assistant Director of Regulation and Enforcement and/or the Monitoring Officer (or their representatives) not to:
  - a) Take any further part in the consideration of the application; and
  - b) Vote on the application. This can only be transparently demonstrated by the relevant Member not attending the meeting or leaving the Committee Room in order to ensure the integrity of the whole decision making process. If the relevant Member wishes to speak at Committee then they should declare their pre-determined position and withdraw from the meeting. This is to ensure Members of the Licensing Committee do not, by their presence, influence or seek to influence the remainder of the decision making body. Members should always notify Committee of any approach by any group, person or company prior to the discussion of the relevant matter.
- ii. Members of the Committee who may be involved in the determination of an application are, of course, free to listen to a point of view about a proposal, give procedural advice and agree to forward any comments, but should then refer the

person to officers. Members in this situation may indicate (or give the impression of) support for or opposition to a proposal, but should avoid giving the impression of a closed mind.

- iii. Whilst Members involved in making decisions on applications may begin to form a view as more information and opinions become available, a decision can only be taken by the Committee after all available information is to hand and has been duly considered. In this regard, any political group meetings prior to the Committee meeting should not be used to determine how Councillors should vote. Decisions can only be taken after full consideration of the evidence, representations and submissions made.
- iv. The Chairman of the Committee should attend a briefing with officers prior to a Full Committee meeting, to help give an effective lead in the Committee.
- v. Councillors involved in decision making on Licence applications should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as advocate or put pressure on officers for a particular recommendation. However, other Councillors (who are not part of the decision making process) within that Committee Member's Ward, can make written representations to the Licensing Committee.
- vi. A Member involved in determining applications may respond to lobbying by openly expressing an opinion prior to the full report of the Assistant Director of Regulation and Enforcement to a Committee meeting (and there may be particular local circumstances where this is considered appropriate) but should indicate they will not make a final decision until after full consideration of all the evidence, representations and submissions.
- vii. If a Member involved in determining applications goes so far as to make it clear beyond doubt that they have a completely closed mind which could not be shifted, this would amount to predetermination and the Member concerned should respond as in C9.4i.
- viii. Where Members involved in the determination of applications are in attendance at public meetings or Ward meetings they may listen to the debate on current applications, provide advice about procedures involved in determining an application and express a view about an application but should respond as in C9.4vi.

### **Members Predetermination of Applications**

- ix. Section 25 of the Localism Act 2011 states that prior indications of a view of a matter do not amount to predetermination in the following situations:
  - (2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because-

- (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter and
  - (b) the matter was relevant to the decision.
- x. The advice provided by the Monitoring Officer is that this is the present position with regard to the Legislation but, whilst Members are entitled to express a view in relation to an application, Members should indicate they still have an open mind in relation to an application until they have had the opportunity to consider the report of the Assistant Director of Regulation and Enforcement and that the final decision in relation to the application can only be made by Committee. This caveat is intended to safeguard so far as possible the decision made by Committee from Judicial Review until further case law and guidance has assisted with the interpretation of Section 25 of the Localism Act 2011.

### **Dealing with Correspondence**

- xi. Members of the Committee and Executive often receive correspondence from constituents, applicants and other interested parties asking them to support or oppose a particular proposal. Members should forward a copy of the correspondence to the Director of Regulation and Enforcement or inform him/her at the Committee if time is short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application.
- xii. Communication which is intended to be an objection to (or support for) a licence application **MUST** be properly served on the Licensing Service, not with elected members or other Council Officers. Such communication should be forwarded immediately to the Licensing Offices.

### **Pre-Application Discussions**

- xiii. When involved in pre-application discussions, officers should always act fairly to all and completely impartially by providing accurate advice and assistance when required or requested by the general public, applicants or Members. A written record of all such discussions must be retained on the Licensing file.

### **Site Visits by Members with Officers (Uncommon)**

- xiv. The deferral of a relevant application for a site visit should not be on the basis of exposing members of the Committee to local opinion, but should be on sound and proper Licensing reasons, which shall be recorded in the minutes of the meeting.
- xv. Under the Chairman's guidance the role of the Licensing Officer attending the site visit will be:
- a) To brief Members on the Licensing applications(s), the subject of the visit and explain the reasons why the application was deferred for a visit;



- b) To ensure that the views of all interested parties are heard by all Members on the site visit and accurately recorded. Officers will prepare a written report of the site visit which will be taken back to Licensing Committee to form the basis of a further discussion at a subsequent meeting.
- xvi. The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.
- xvii. Officers shall ensure, where practical, that applicants, Members and interested parties are invited to attend the visit and that they are able to view all key parts of the site, which is the subject of the Applications.
- xviii. The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the Licensing application and which would not be apparent from the Licensing application to be considered by the Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area, and is an opportunity to hear the views of the members of the public, applicants and other interested parties. Discussions on site visits shall be confined to the application as currently submitted. A Member of Committee who has an interest in a Licensing application, or who has acted in a way that amounts to predetermination, cannot attend the site visit in his or her capacity as a Member of Licensing Committee. However, the Member concerned would be entitled to attend the site visit in his or her personal capacity as a member of the public.
- xix. Whilst on site visits, Members of Committee can express an opinion on the application or its merits, but should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination. Whilst Members of Committee are not prevented from engaging individually in discussion with applicants or objectors, to ensure transparency of public dealing by Members and effective /orderly management of the site visit, it is recommended that any question of the applicant(s) / objector(s) by the Licensing Officer and/or Members should be made in the presence of the other parties (or their representatives if there is a large scale public interest).
- xx. Members and officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if:
- the impact of the proposed application is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance); or
  - there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- xxi. Where there is substantial public interest in a proposal and relevant representations have been made, the Council may invite all parties to visit the site so that they may

point out all the areas of contention to Members of the Licensing Committee and give their views. A note of proceedings will be taken at these meetings and minutes kept as part of the official record.

- xxii. Results of the site visit will be reported to the next available meeting of the Committee.
- xxiii. Once the results of a site visit have been reported back to Committee, Members of the Committee who were not present at the site visit can ask questions, offer opinions, take part in discussions and vote in relation to that Licensing application.

#### **The Role of Ward Councillors and MPs on Site Visits**

- xxiv. Where relevant representations have been made, Ward Councillors and MPs may attend and participate in site visits putting forward their point of view. However, the determination of Licensing applications rests solely with the Licensing Committee and no indication should be given by Members of the Committee of the likely decision during the course of the site visit.

### **1.5 Meetings of the Licensing Committee**

- i. A Member shall not vote in relation to any Licensing application unless he or she has been present in the meeting of the Licensing Committee for the whole of the deliberations on that particular application.
- ii. A senior legal officer should always attend meetings of the Licensing Committee to ensure the probity and propriety of the Licensing and decision-making processes.
- iii. Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item, by requesting from each Member as to how they have voted, noting this and the Member's name.
- iv. Chairmanship: the chairman should ensure
  - Members' comments at Committee only relate to the relevant merits of the application before them;
  - Reference at Committee to matters which are not relevant should be disregarded;
  - The cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined; and done in accordance with the appropriate Procedural Rules for the Hearing in question.

### **1.6 Training**

- i. Members dealing with Licensing issues will attend such training sessions as required each year to receive guidance in relation to Licensing matters and processes and on procedural matters such as declaration of pecuniary or non-pecuniary interests. Training will be conducted in accordance with the training for Councillors standard.

Members who fail to attend such training will be excluded from meetings of Licensing Committee. This training should include a balance of the following:-

- Short (half day) sessions on special topics of interest or where appeals have indicated problems with Licensing policy;
- Special topic groups to consider thorny issues in depth;
- Formal training by internal and external speakers;
- Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session.

### **1.7 Licence Applications Submitted by Councillors and Officers**

- i. Serving Councillors or their relatives who act as agents for people pursuing a Licensing matter will not be permitted to play any part in the decision making process for that proposal. Similarly, should they or their relatives submit their own proposal to the Council, they will take no part in its processing, as in both cases they will have an interest in the matters.
- ii. In cases where officers of this Department or members of their family submit a licence application, or where they have an interest in a particular application they should inform the Assistant Director of Regulation and Enforcement and Monitoring Officer accordingly (e.g. where an application is submitted by a limited company and an Officer is a director (or similar) of the company).

### **1.8 Registration and Declaration of Interests**

- i. The Localism Act 2011 and the Birmingham Code of Conduct for Members place requirements on Members on the Registration and Declaration of their interests and the consequence for the Members' participation in consideration of an issue in the light of those interests. These requirements must be followed scrupulously and Members should review their situation regularly. Guidance on the registration and declaration of interests is dealt with by the Birmingham Code of Conduct for Members.

### **1.9 Complaints about the Determination of Licensing Applications**

- i. Whatever procedures the City Council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.
- ii. There is a city-wide procedure for dealing with complaints, as well as customer comments and compliments. Complaints alleging a breach of the Birmingham's Code of Conduct for Members must be reported to the Monitoring Officer.

- iii. So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. The guiding rule is that every application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, why and how it had been reached. Particular care needs to be taken with applications determined under the powers delegated to the Assistant Director of Regulation and Enforcement, where there is no report to a Committee. Such decisions should be well documented and form part of the case file.
- iv. It is preferable to use the complaints procedure prior to any recourse to the Local Government Ombudsman.
- v. Where any right of appeal exists against a decision of the Licensing Committee, that right is to be communicated at the time of the notification of decision.
- vi. Where the complaint relates to the decision made by the Licensing Committee, this decision cannot be overturned other than by following the statutory appeal process if one exists. No complaint procedure can overturn the decision of the Committee.

#### **10. Concluding Remarks**

- vii. Maintaining high ethical standards enhances the general reputation of the City Council, its Members and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. A common understanding of the various roles, responsibilities and accountabilities should also enhance citizen participation. This Licensing Code, along with Birmingham City Council's Code of Conduct for Members, therefore, serves an essential part in the local and corporate governance of Birmingham City Council.
- viii. The City Council's Head of Paid Service, the Monitoring Officer and the Section 151 Officer have been consulted over this Licensing Code.
- ix. If any person believes that a Member or Officer has breached any aspect of this Licensing Code, s/he should refer the matter to the City Council's Monitoring Officer.

**BIRMINGHAM CITY COUNCIL**

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

**23 JUNE 2021**  
**ALL WARDS**

**REGULATION AND ENFORCEMENT**  
**ANNUAL REPORT FOR WORK DELIVERED IN 2020/21**

1. Summary

- 1.1 This report advises on the work undertaken during the year April 2020 to March 2021 by the Regulation and Enforcement Sections: Trading Standards, Register Office and Licensing, which report to the Committee. The remaining sections will report on their activities to the next Committee.

2. Recommendation

- 2.1 That the report be noted.

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and Enforcement  
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### 3. Background

3.1 The services of Regulation and Enforcement that report to the Committee are:

- i. Environmental Health.
- ii. Trading Standards.
- iii. Register Office.
- iv. Coroners and Mortuary Service
- v. Licensing and Street Trading.
- vi. England Illegal Money Lending Service.

3.2 The service areas that are included in this report are Trading Standards (Appendix 1); Register Office (Appendix 2) and Licensing (Appendix 3). Remaining service areas will present their report to a later Committee.

3.3 The operating model for Regulation and Enforcement implemented in 2010/2011 continues to deliver both statutory and other services that fulfil the corporate priorities of Birmingham City Council. Focus has been on dealing with the pandemic in all areas, as well as trying to maintain normal services as far as possible.

3.4 The Trading Standards Service delivers consumer protection and business support services in the areas of: consumer advice and assistance; commercial investigations; product safety; underage sales; consumer credit; internet crime; proceeds of crime; metrology; and fair trading.

3.5 The Register Office Service is responsible for the registration of births, marriages and deaths, the legal preliminaries to marriages (other than those in the Church of England), the arranging and conducting of civil marriage ceremonies, the issuing of certified copies of register entries and the legal preliminaries to and registration of civil partnerships.

3.6 The Licensing Service comprises three teams (General Licensing, Hackney Carriage and Private Hire Licensing and Licensing and Street Trading Enforcement). Between them, they are responsible for the administration and compliance of thousands of licensed people places and vehicles. The remit includes taxi and private hire matters, alcohol and entertainment licensing, gambling, street trading, special treatments, skin piercers and sex establishments.

### 4. Implications for Resources

4.1 The activities detailed in this report were undertaken within the resources available to your Committee.

## 5. Implications for Policy Priorities

- 5.1 The services reporting to this Committee contribute to the Birmingham City Council Delivery Plan 2020-2022. The aim is to create a sustainable, future-proof model of local public services – focused on supporting the needs of people, partnership working, empowered staff and community engagement.
- 5.2 The values (in common with the City Council) are putting residents first; acting courageously; being true to our word and achieving excellence.
- 5.3 The Council re-evaluated its goals during 2020/2021 producing a delivery plan for April 2022. The contribution of the individual services to this plan is identified in the relevant Appendix.
- 5.4 The main operating base for the Division moved from Manor House to Ashted Lock in October 2020, with satellite sites for Markets, Pest Control and IMLT. This impacted on the Trading Standards and Street Trading Services (as well as Environmental Health, Pest Control and IMLT).

## 6. Public Sector Equality Duty

- 6.1 The various actions identified in the report were undertaken in accordance with the Regulation and Enforcement's enforcement policies which ensure that equalities issues have been addressed. This policy was reviewed in the course of the year.

## 7. Consultation

- 7.1 Consultation is undertaken with members of the public, traders and elected members wherever possible to ensure that our services are delivered and tailored to the needs of our customers and stakeholders.

## **INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background papers:

Various files and computer records in the Licensing, Trading Standards and Register Office Services.

**TRADING STANDARDS SERVICE**

**Background**

Birmingham Trading Standards Service comprises two Operational Managers, two Accredited Financial Investigators and 12 frontline officers, who investigate issues and enforce over 250 Acts of Parliament and associated regulations. The service is both proactive and reactive and offers support to vulnerable consumers and first line advice to legitimate businesses. Bespoke advice can be offered through the development of a Primary Authority Partnership (PAP).

Complaints/ service requests (requests for assistance - RFA's) are mostly received via the Citizen's Advice Consumer Service (CACS). CACS referrals may involve a criminal element where a business is operating unlawfully or the consumer is considered vulnerable. The service received 5,056 RFA's by last year.

The service works closely with 14 Central England Trading Standards Authorities (CEntSA) allowing the pooling of resources to tackle emerging threats, assess risk and harm, tackle organised crime groups (OCGs) and share best practice.

Since 2019 the Service has set four key objectives to tackle issues proactively:-

- Underage sales
- Rogue traders
- Tackling the ghost economy
- Placarding (Fly posting)

**Protection of vulnerable individuals**

**Underage sales**

The service undertook proactive inspections, advice visits and covert test purchases to establish if underage sales were being made by Birmingham businesses. These sales included products such as knives, alcohol, tobacco and fireworks.

In 2020/21 72 complaints were received about the sale of age restricted products. This is an increase of 14 on 2019/2020; some being multiple complaints about one premises. Where allegations are proved valid, businesses are given advice and warned as appropriate. 14 fireworks retailers were inspected.

Despite not being able to use young volunteers due to covid restrictions, two exercises were undertaken (using younger police officers) to test if the Challenge 25 scheme was being supported. 21 shops were visited that resulted in 11 sales. On all occasions the retailer was revisited and advised they should have asked for proof of age. The shops were educated on best practices and have signed up for The Responsible Retailer Scheme.



## Cases

In October 2020 a Director pleaded guilty to supplying a knife to a person under eighteen, he was fined £435 with £1000 costs awarded with forfeiture and destruction of the knife. The Magistrates when agreeing the level of punishment, took into account this was a new business and the difficult trading conditions, but also the fact the offence took place a month after an information pack had been delivered.

In October 2020 at Birmingham Magistrates Court the seller of a knife to an underage volunteer was sentenced to a community order for 18 months with 80 hours unpaid work. Costs of £650 were awarded.

In March 2021 a shopkeeper pleaded guilty to the sale of a knife to an underage person in February 2020 from a supermarket in Bordesley Green Birmingham. As the owner of the business, he was fined £650 and ordered to pay full costs along with a victim surcharge; a total of £2,290.

## Tackling rogue traders

The service responded to information of rogue traders targeting vulnerable adults and undertook rapid response visits, area checks, paperwork checks and two significant investigations involving payments totalling over £300,000 in payments for poor or unnecessary building work.

Visits were made to vulnerable adults being targeted by postal scams and the service produced communications warning residents of Birmingham about scam calls, texts and websites.

In February 2021 an officer witnessed his elderly, vulnerable neighbour being hassled by some workmen on his front drive. The officer intervened and discovered that they had started power washing his drive without permission. It is believed they were going to complete the work and then demand money from him. The officer advised he was going to call the police and the workmen drove off.

On 18 March 2021, following the intervention of Trading Standards as part of a criminal investigation, a consumer who had been duped by an alleged builder received £15,980 from her bank. This is the sum she paid to the builder.

**Bogus Police Officer** - In January 2021 the service dealt with an alleged scam call. The person received a call from someone claiming to be a Staffordshire Police officer. The scam was about obtaining bank cards. It was claimed someone had been caught stealing money from his bank account and his bank card was needed to examine it for fingerprints and DNA. Several calls were made during the day, slowly moving from sending officers to examine the card, to sending a 'driver' to collect it and asked him to have it ready in a sealed envelope. A call to Staffordshire Police and West Midlands Police confirmed that the name and collar number given for the 'officer' were false. After the intervention of Trading Standards (TS), the scammers were advised TS were aware it was a scam and told not to bother the victim any further. Most worryingly, the fraudsters had made their calls appear as though they were coming from the back-up non-emergency number for Staffordshire Police.

**Bogus official** - In January 2021 a resident who had been a previous victim of a rogue builder advised they had been approached by a man purporting to be from Trading Standards asking for money to take his case forward. The service through their twitter account posted a scam alert message. The message was that the service never asks for money and all staff have official BCC ID that can be checked.

## **Street scene**

Removal of illegal placards- Prevention of illegal advertising and rogue trader intervention was introduced as a priority for consumer protection. Not only was there a need to ensure these adverts were removed from the street scene because of the damage to street furniture and the impact on the street scene, the postings pose a safety issue when attached to railings at junctions. Consumer protection legislation breaches may occur when only a mobile telephone number is being advertised. This was evidenced by the number of traders refusing to provide details when requested.

Illegal placarding or 'fly- posting' is a blight on the city spoiling the local environment and giving a poor image of the city to visitors. It is also a form of illegal advertising giving an unfair advantage over legitimate traders.

Four exercises tackling placarding took place in the year, (July, September, November and February). In the first exercise 140 placards were removed and 35 different individuals /businesses identified. Over the four exercises 396 placards were removed. The businesses identified ranged from builders, gardeners, driveways, kitchen fitters, blinds suppliers and private tuition providers. Officers have contacted the persons responsible and where possible have issued written warnings. In one case legal proceedings are being instigated, not only was there a large number of placards displayed, further placards were found after a warning had been issued and logos were being displayed that the business had no right to use.

## **Tackling Illicit Product sales**

**Operation Choke** –A two-day blitz in August resulted in visits to 40 premises. Premises had been selected as prior allegations had been received about the sale of selling illegal tobacco. Advice packs and warning letters were given to all. A further four premises were visited in January in preparation for future tobacco inspections.

**Operation Ce Ce** - TS is actively involved in the disrupting the supply chain of illicit tobacco products due to the organised crime gangs' links with its distribution.

In March 2021 TS Officers visited six business premises with previous history and intel of dealing in illegal tobacco; they had all been visited as part of Operation Choke. Five premises were found to have illicit and counterfeit tobacco and alcohol. Goods with an approximate street value of £2,200 were found and seized.

The businesses are being investigated for offences; some of these are licensed premises and applications for the review of the Premises Licence are being progressed. There will be a further exercises in this financial year.

### **Sale of counterfeit cigarettes to underage volunteer**

Following a seizure of counterfeit cigarettes and tobacco TS visited a Bordesley Greengrocery Store in an underage test purchase exercise of cigarettes. A test purchase in February 2020 identified as well as the illegal sale of cigarettes to someone under 18 the tobacco was confirmed to be counterfeit. Proceedings were instituted against the seller and the owner of the business.

On conviction in March 2021 the magistrates imposed a fine of £225 reduced to £168 for credit (25%) with a costs' contribution of £185 and victim surcharge £32 (total £385). The Counterfeit tobacco sale was considered at Crown Court in March 2021 with the seller being convicted. A 18-month community order was issued with a 15-day rehabilitation requirement. He was ordered to pay £2,400 in costs and a separate victim surcharge.

18 complaints alleging counterfeit alcohol were received and investigated, and premises visited to ensure compliance, resulting in the seizure of counterfeit and illicit goods- over 561 bottles of wine and 19 bottles of vodka. Cases are ongoing and Officers are liaising with the Food Standards Agency Food Crime Unit, HMRC and neighbouring local authorities.

Clothing and accessories were the most complained about with 52 reports made. There are several cases awaiting trial, having been delayed due to covid.

**Operation Cure** – Branded mobile phones are highly popular in the marketplace. Counterfeiters seek to exploit the demand for cheap mobile phone accessories. This puts legitimate traders supplying genuine goods at a disadvantage and consumers receive cheap poor-quality imitations. Typically, these can be purchased on a variety of online platforms and retail outlets. 12 reports alleging counterfeit mobile phone and accessories were received but this is believed to be an under reporting possibly as many consumers are unaware that they have been sold fake goods.

Five city wholesalers were inspected in the Summer. A large quantity of suspected counterfeit goods such as adaptors, EarPods, batteries, phone cases, mini blue tooth speakers were seized. Over 23,000 items were seized. The street value or loss to the trade of genuine goods would be about £470,000. Some goods, such as adaptors were found not to comply with electrical safety legislation requirements.

Currently five cases mostly for breach of the Trade Marks Act 1994 are being considered for prosecution.

In November 2020 Mohammed Tariq received the Anti-Counterfeiting Group award for excellence in Counterfeiting Enforcement. Further, Birmingham Trading Standards Service and The Regional Investigation Team received an award in this area of work.

## **COVID IMPACTS**

The national lockdown measures came into force on 26 March 2020. During this time businesses were ordered to close that were not deemed to be essential. Work the service was involved in:

- Price hikes and cases of dual pricing.
- Test purchases at premises that should have been closed leading to penalty notices.
- Seizure of unsafe hand sanitiser.
- Advice to businesses, consumers and the council about PPE.
- Seizure of untested PPE.
- Issues emerging regarding the supply of PPE (face masks etc).
- Fake certification of PPE including face masks.
- Fake websites offering PPE, home test kits and other corona virus scams.
- Investigating, tracing and reporting fraudulent grant applicants.

Officers worked with other council services e.g. procurement to ensure the authenticity of companies wishing to provide PPE to the Council including surgical and respirator type face masks, gloves, visors and aprons. Checking documentation accompanying the products being offered for supply, such as the safety test reports and CE conformity certificates and testing equipment to ensure compliance. (in many cases, the paperwork was found to be falsified or non-compliant)

## **Reactive work**

In addition to the proactive work the service has investigated issues concerned with product safety and other priority areas. The Service also ensures that unsafe products are removed from the supply chain. A total of 277 complaints were made of which 78 related to protective equipment; 66 were made regarding electrical goods.

One product safety investigation related to the safety of tricycles being imported by a Birmingham business. Consequently, it was found that the tricycles did not comply with the Toy Safety Regulations 2011 and this resulted in 59 children's tricycles forfeited from the importer for destruction.

Buying a vehicle remains one of the most expensive purchases a consumer makes. Consumers are entitled to know 'material information' regarding a vehicle's condition and history before deciding to buy. Customers must be assured the vehicle is correctly described and most importantly safe. TS are involved in investigating those traders selling on various online platforms not fully disclosing their identity and misleading consumers. When consumers do complain they refuse to provide a repair or refund, ignoring their obligations under the Consumer Rights Act 2015

Complaints about car sales/repairs remains high; a total of 295 were received, with 29 alleging safety concerns, 43 related to misdescriptions, 31 regarding repairs and 14 alleging clocking of the vehicle.

### **Unroadworthy vehicle sold by Platinum Motors Company Limited**

One of the directors pleaded guilty in November 2020 to supplying a car in an unroadworthy and dangerous condition. He was sentenced to a fine of £240 (with credit for early guilty plea) and had to pay £1,000 towards costs.

### **Redress achieved for consumers**

A consumer purchased a car from a trader prior to lockdown. The trader told the consumer no test drive was available due to the consumer not having insurance. Upon receipt of the vehicle the consumer noted several issues wrong and the car broke down requiring roadside assistance. The trader refused to honour a refund, restricting the consumer's rights. After TS intervened a refund of £2500 was given.

A consumer purchased a car online and on delivery various faults were identified. The car lost power on the motorway which could have been dangerous. The seller told the consumer to use the warranty; the warranty company said it was not covered. With TS's intervention, the consumer received a full refund of £7,000.

There are other ongoing investigations involving cars involving traders misleading consumers about their identity and legal position regarding the transaction.

### **Brexit**

During this period the UK left the EU. Consequently, we have had to adapt to new rules on importation and labelling.

### **Role of Responsible Body under the Licensing Act 2003**

TS is designated as a Responsible Authority for the purposes of the Licensing Act 2003. Where illicit goods are found on licensed premises or age restricted products sold to test purchasers an application for a review of the premises licence is made.

The Trading Standards service has applied for two licence reviews that culminated in the licences being revoked.

### **Proceeds of Crime**

TS maintains two accredited financial investigators to investigate money laundering and living off a criminal lifestyle.

During 2020/21 defendants were ordered to pay £339,612 in Proceeds of Crime benefit. That includes POCA cases dealt with on behalf of other City Council Departments and Local Authorities. £544,851 was paid into the Confiscation Unit by Defendants. Of that £544,851 paid, £231,337 was compensation due directly to victims of crime.

Accredited Financial Investigators in TS are assisting colleagues in Audit and Business Rates with investigations into suspected fraudulent applications for COVID-19 business support grants. The team have 11 active investigations. Two individuals have already been charged with fraudulent activity regarding business grants.

### **Trading Standards Website**

The Trading Standards website consists of 20 pages in the Birmingham.gov.uk website. The number of views of the TS website was 63,984 in the last year, which is an increase of 16,456 views from the previous year.

### **Trading Standards Twitter**

The @bhamts Twitter account has 2,996 followers, an increase of 427 followers from the previous year. Many advisory tweets are put on each day covering mainly scam awareness, doorstep crime, financial abuse, electrical safety, weights and measures, hallmarking and any other current issues. A total of 1,575 Tweets were put on for this year and 1,523,600 impressions created. There was a total of 1,316 mentions for the year. In November 2020, during National Safeguarding week one Financial Abuse Tweet alone generated 14,5k impressions.

TS continue to post scam awareness tweets on current scams around these have included scams purporting to relate to Amazon Prime, HSBC bank, Royal mail, TV licensing, DHL, HMRC, NHS, Virgin Media and many others.

### **Outcomes of legal proceedings.**

It should be noted that a number of large cases requiring trials have been severely delayed due to covid so outcomes will not be known for some time.

<b>Legislation</b>	<b>Cases</b>	<b>Offences</b>	<b>Fines</b>	<b>Costs</b>	<b>Other Penalty</b>
Criminal Justice Act 1988	3	3	£1,085	£3,258	18-month community order and 80hrs unpaid work
Trade Marks Act 1994	1	5	£0	£0	4 month suspended sentence.15 days RAR & 150hrs unpaid work
Road Traffic Act 1988	1	1	£240	£1,000	12-month community order, 15 day

## **REGISTER OFFICE**

The Registration Service is a statutory function which Birmingham City Council is required by law to provide in terms of accommodation and adequate staffing to register all civil events within a specified national time frame. These events include the registration of births, deaths, stillbirths, marriages and civil partnerships, conversions of civil partnership to marriage, attesting the legal preliminaries to marriages, civil partnerships and conversions, the provision of a certificate service and the provision of citizenship ceremonies. All events to be registered are those which occurred within the boundary of the City. In discharging these functions, registration employees officiate at ceremonies at the Register Office in addition to approximately 60 approved premises. They also attend and register marriages taking place at religious buildings. The service also provides the statutory citizenship ceremonies, a change of name services and other non- statutory civil ceremonies. The Service is directed by the Registrar General, whose General Register Office (GRO) is part of HM Passport Office. It is administered locally by Birmingham City Council and the Proper Officer for Registration Matters is Paul Lankester Interim Assistant Director Regulation and Enforcement.

### **Service Successes**

2020/21 proved a very challenging year for the Service due to the impact of Covid 19. Birmingham was designated as a “hotspot” by GRO due to the disproportionately high number of deaths which occurred in its registration district. GRO acknowledged that 2020/21 has been an extremely challenging year for the Local Registration Service commenting that Civil Registration has never had a higher profile, or more important role to play in supporting society in responding to the COVID-19 pandemic. It is as a result of the flexibility, hard work, dedication and professionalism of the staff that the delivery of this key public service has been maintained throughout the pandemic.

The table below shows the number of life events handled by the Service for 2020/21 compared to the previous year.

<b>Event</b>	<b>2019/20</b>	<b>2020/21</b>
Birth registrations	21630	20450
Still –birth registrations	109	111
Death registrations	10372	13420
Birth re-registrations	562	75
Notices of marriage/Civil Partnership	6838	4108
New British Citizens	2874	1973

In total 675 marriages were celebrated and registered in the city. Staff attended 1 marriage at a religious building and 60 at the City's approved venues. There have been 20 marriages under the Registrar General's Licence Act which allows a person who is terminally ill and cannot be moved to a place where marriages take place, to get married wherever they are.

Registration staff made 146 S24 reports of possible offences relating to sham marriages during the year.

42 civil partnership ceremonies took place in the City over the year reflecting the trend of same sex customers choosing to marry rather than form a civil partnership.

88318 certificates of birth, marriage, death and civil partnership were issued to the public.

There have been 7 applications received from trustees of buildings to register the buildings as places of worship, 3 applications for the solemnization of marriages. These applications were processed by the staff at the Register Office in conjunction with General Register Office.

In addition, officers have:

- Attended Faith Advocacy Group meetings.
- Attended Coroner's professional meetings
- Attended West Midlands Regional Registration Group meetings
- Participated in the West Midlands Regional Performance Improvement group
- Participated in the Regional Fraud prevention group
- Contributed to the Law Commission Marriage Review which is a comprehensive review of the current marriage laws and is likely to result in significant legislative changes.
- Participated in valuable partnership working with central government bodies such as DWP and the General Register Office and local districts.
- Participated in local partnership working with hospital bereavement teams, the medical examiners service, organisations such as BCC Children Centres, Approved Premises and religious bodies.
- Continued to report suspected Sham marriages and Civil Partnerships and fraudulent applications for certificates.

The Registration Service has continued to provide the Emergency Bereavement Service to enable families to bury their deceased relatives or to repatriate the body to a Country outside of England and Wales within a very short period of time when required by religion or culture.

Furthermore, the Service has provided a 365- day service for marriages and civil partnerships, where one party is terminally ill, in accordance with the Registrar General's Licence Act.



Service managers have strengthened partnership working with faith advocacy groups, GPs, hospitals and Medical Examiners to help reduce factors which delay the death registration process.

Managers worked with the Fees and Funding Joint Working Group to contribute to their work on working with GRO on future funding of Civil Registration.

The Service facilitated the delivery of the European Union Settlement Scheme Checking Service.

## **Challenges to the Service**

### **Impact of Covid 19**

Covid 19 had a significant impact on the Service. Death registrations were carried out in line with the Coronavirus Act and the direction of the General Register Office (GRO). In late March 2020 a new process for registering was enacted under emergency legislation enabling deaths to be registered remotely and documentation to be received electronically. The Service implemented these changes and honed the processes to improve performance. In April 47% of deaths where there was no coronial involvement were registered within 5 days, by the close of the year the figure had increased to 81%. This was a significant achievement, particularly in view of the fact that the volume of deaths registered for the year had increased by 29.39%.

In the early months of the pandemic all but emergency birth registrations were suspended, with the Government lifting the suspension in June. Unlike death registrations, birth registrations require face to face meetings and the Service was providing a birth registration service in a COVID 19 secure environment from mid-June.

### **Backlogs**

Birmingham is the largest registration district in England and Wales and due to the national lockdown had a backlog of 6260 birth registrations, 3741 of which were over the statutory limit of 42 days. The Service made significant inroads in reducing the backlog with the limitations of registering within a Covid 19 secure environment. By the end of March, the outstanding figure had reduced to 2201 and 573 respectively. 73% of births were registered within 42 days during 20-21.

Following the first national lockdown, the Government announced the taking of notices of marriage and civil partnership, and ceremonies could recommence in Covid 19 secure venues from July 2020. Similar to birth registration, the taking of notices requires face to face appointments. The Covid 19 social distancing measures coupled with Government guidelines for those who were extremely or clinically vulnerable hindered the ability of the Service to meet increased demand to give notice and book/rebook ceremonies from couples who had marriages delayed or who had decided to marry. By the close of the year there were 714 couples waiting to give notice.

In line with national guidance the Register Office implemented measures to recommence ceremonies from 4 July. During the second national lockdown, marriage and civil partnership ceremonies were suspended from 5 November to 2 December. Marriages and Civil Ceremonies were again suspended in January 2021 unless there were exceptional circumstances. Citizenship ceremonies resumed in July with many delivered remotely from January. The service successfully offered a citizenship ceremony to all new British citizens within its district within Statutory timescales.

The service was significantly impeded in its ability to issue copy certificates within required timescales, due to a combination of registering deaths remotely, the increase in death registrations and staffing limitations as a result of the pandemic. This led to a backlog of outstanding current death certificate applications and of historic certificate applications. As more staff were able to be returned to work at the Register Office the service was able to issue all current death certificate applications promptly. At the close of the year there remained a backlog with the issuing of historic certificates of approximately 9 weeks.

The continuing heavy workload of the Registration Service and limited employee resource remain a significant challenge and restrict the ability of the Service to achieve statutory key performance indicators (KPIs). Monitoring against the KPIs was suspended by GRO during the pandemic, as was a planned service review in recognition that the focus would be on maintaining service delivery and planning pandemic recovery activity.

As a Designated Register Office (DRO) Birmingham Register Office is currently one of a few districts in the West Midlands which deal with citizens who are subject to immigration control. These particular customers are required to attend a Designated Register Office regardless of where they reside. Birmingham is the largest and most central DRO in the country and consequently the ceremony service area continually dealt with customers and telephone calls from all over England and Wales, and from British and non-British subjects all over the world who wished to marry in England and Wales. Being a DRO proved extremely challenging throughout the pandemic as the demand in this area of service provision increased considerably.

## **Budget**

The service had an income budget of £2.286m. The various lockdowns and suspensions of service streams during the pandemic resulted in a calculated income loss of £535K. The service achieved £1.790m income and therefore a surplus of £39k was achieved.

The service overall had a net budget of £0.724m, outturned at £1.167m, within this Covid pressures were identified pressures of £0.705m. There was therefore an overall (non-Covid / BAU) surplus of £0.262m

## **Improvements**

Due to the emergency legislation and the introduction of internal procedures, the Service has successfully reduced waiting times for death registrations where there is no coronial involvement by 9%. This is a particularly commendable achievement in view of the fact that death registrations increased by 29.39%.

To help reduce the backlog of birth registrations a further review of the diary appointment process took place which resulted in an increase in appointment availability. This proved effective and aided the Service in birth registration recovery since when birth registrations resumed in June, 8% of births were registered within 42 days, by March this figure had risen to 73%.

Other improvements include the further employment of the Stopford electronic system with the introduction of their online certificate ordering system to replace the discontinued Tomkat system. This system proved its worth during the pandemic as it has the functionality to differentiate the type of certificate applied for which enabled the Service to issue death certificates promptly.

The Service streamlined administration processes in respect of marriages and civil partnerships which improved the customer journey and improved staff efficiency.

The move over to Microsoft teams and increased use of its various functions has also aided the Service in becoming more efficient which has benefitted staff and customers alike.

## **LICENSING**

### **Background**

The Licensing Service consists of the General Licensing, Hackney Carriage and Private Hire Licensing and Licensing Enforcement teams.

All three teams are located at Phoenix House, Valepits Road, Garretts Green, Birmingham, B33 0TD. The service moved to its new location from its former premises at Ashted Lock in February 2020.

The Licensing Service operates to an ISO 9001 BSI accredited Quality Management System.

### **The impact on Covid 19 on the licensing service:**

Obviously the impact of the global pandemic has been felt across all service areas. In Licensing, the lockdown restrictions necessitated a fundamental change in the way applications and transactions are dealt with. Officers had to innovate and redesign the processes in a way which meant we could continue to comply with statutory deadlines whilst keeping our staff and customers safe. All within weeks of moving the service to a new location.

Both the general licensing and hackney carriage and private hire teams had previously accepted hard copy applications, with taxi and private hire applications being dealt with as personal callers with physical handover of documents. This could obviously not continue. Steps were taken to move the Licensing Act applications to online-only, and new applications forms and web pages were quickly designed to allow the taxi and private hire trade to submit their applications online. Officers had to act quickly to get the necessary alterations to policies and delegations to ensure normal service standards could be maintained as far as possible.

Matters which would normally be delegated to a 'driver' sub-committee were delegated to senior officer panel to ensure matters of concern, as well as requests for consideration of other circumstances could continue. Licensing Act hearings were moved online, through the use of Teams, which has enabled greater flexibility in terms of member availability and engagement from other parties.

A number of laptops were sourced allowing some officers to work from home, but unfortunately, owing to the antiquity of the SOPRA licensing system, a large number of tasks required officers to be physically present in the office. With a high proportion of staff shielding or having to care for children who could not attend school, there were a handful of staff who met the challenge head on; found new ways of working and took on aspects of other roles which could not be carried out by others.

Officers unable to carry out their own functions assisted colleagues from other service areas by carrying out other tasks such as delivering documents, data collation and even providing security services. Later, officers assisted the team who administered the Covid-support grants which were available to the hackney carriage and private hire trade.

The Head of Licensing was participant in the emergency planning response to Covid and was a member of the Environmental Cell and led a corporate task and finish group on highways obstruction. One of the steps taken by Government to lessen the impact of Covid on the hospitality sector was to introduce temporary Pavement Licences. These licences are administered entirely by colleagues in Highways and City Centre Management. However, officers from Licensing assisted the implementation of the scheme, drawing up a policy and providing advice and assistance in terms of application and interpretation of the requirements.

Pre-covid, the knowledge test for private hire drivers was delivered in-house by officers. The move to new offices had caused issues with a lack of suitable sized room in which to deliver the training in a viable manner and investigations were already underway to seek an alternative yet cost effective location. To ensure the test could be delivered in a covid-secure manner, and in a more flexible and efficient manner this test is now conducted on behalf of the licensing service by TTC 2000 Ltd. This arrangement has proved to work very well and has been positively received by all.

The General licensing team dealt with a number of high-profile matters over the period, including expedited (summary) reviews of licensed premises who had been found in breach of the Covid regulations. Despite various challenges to the process and the decisions of your Committee, including appeals and an application for a stated case, the appeals against the decisions have now been dropped.

Officers have worked with the police and colleagues in environmental health to produce guidance for licensed premises on how to respond to the lockdowns and also the reopening.

The number of applications for new licences, and the number of Temporary Event Notices were understandably reduced, as were the number of renewal and new applications for the taxi and private hire trade. As lockdowns are lifted and restrictions lessen, we do hope to see a return to pre-covid levels over the coming months.

### **General Licensing**

The General Licensing Team is responsible for administering over 16500 Licences, registrations and permits across a wide range of licensing functions, which includes amongst others, sales of alcohol, late night refreshment, regulated entertainment, sex establishments, charitable collections, amusement machines, gambling premises, skin piercers and scrap metal dealers.

The number of licences, registrations and permits issued by the team during the years 1 April 2019 until 31 March 2020 and 1 April 2020 until 31 March 2021 can be broken down as follows:

FUNCTION	LICENCE TYPE	NUMBER ISSUED	
		2019/20	2020/21
Licensing Act	Premises New	155	111
	Variation	43	31
	Variation DPS	507	192
	Transfer	185	180
	Provisional	0	0
	TENs	1218	182
	Personals	493	296
	Minor Variation	76	40
	Club Premises New	1	0
	Club Premises Variation	1	0
	Club Premises Minor Variation	0	0
Gambling Act	Premises New	0	6
	Premises Transfer	29	0
	Premises Re-Instatement	0	0
	Premises Variation	2	0
	Gaming Machines Alcohol New	19	6
	Gaming Machines Alcohol Transfer	1	2
	Gaming Machines Alcohol Variation	1	1
	Prize Gaming Permit	0	0
	Gaming Machines Club Fast Track Conv.	1	0
	Gaming Machines Club New	2	0
	Provisional Licence	0	0
	TUNs	0	0
Gambling Act	OUNs	2	0
Sex Establishments - Sex Shop/Cinema	Grant	0	0
	Renewal	8	6
	Transfer	0	0
	Variation	0	0
Sexual Entertainment Venue	Grant	1	0
	Renewal	6	5
	Transfer	1	0
	Variation	0	0
	Minor Variation	0	0
Massage & Special Treatments	Grant (1 level)	17	13
	Renewal (1 level)	40	37
	Grant (2+ levels)	10	2
	Renewal (2+ levels)	22	14
	Variation (Additional Treatments)	0	1
	Transfer	3	0
Societies Lotteries	Grant	32	18
Street Collections	Grant	148	14

FUNCTION	LICENCE TYPE	NUMBER ISSUED	
		2019/20	2020/21
House to House Collections	Grant	30	17
Skin Piercers	Grant	221	101
Scrap Metal - Collectors	Grant	7	5
	Renewal	0	9
Scrap Metal - Sites	Grant	6	6
	New Site Manager	0	0
	Renewal	1	12
	Minor Variation	1	0
<b>Total for year</b>		<b>3290</b>	<b>1307</b>

The figures shown do not reflect the number of current licences, registrations or permits at any given time, but detail the number of applications completed during the period 1 April 2019 – 31 March 2021.

The dramatic fall in licences issued between the 2 years stated is due to the impact of the Covid pandemic.

### **Hackney Carriage and Private Hire Licensing**

The Hackney Carriage and Private Hire Licensing Team issued 8,413 licences during 2019/2020, and conducted a further 2,284 transactions, when replacement, transfer and other sundry transactions are considered.

There were 6,401 licences issued during 2020/21, with a further 404 transactions conducted.

The number of licensed operators fluctuated throughout the course of the last two years but at the end of March 2021 the number was 100 (compared to 89 in March 2019).

Licences are required for hackney carriage and private hire drivers, hackney carriage and private hire vehicles and private hire operators.

Licence holders' details are shared with the City Council's Data Warehouse to prevent and detect benefit fraud and other fraud and to cross reference information about individual licence holders to verify its accuracy.

### **Licensing Enforcement**

The Licensing Enforcement Team is responsible for the inspection of licensed vehicles and premises and consented street traders. They also deal with requests for assistance in respect of general licensing (including street trading), hackney carriage and private hire matters.

In addition to the team's own Licensing Enforcement Officers, a Police Officer is seconded to the team as Taxi Liaison Officer. This position has been vacant since mid-May 2020 but is in the process of being filled.

A team of Special Constables were trained to assist our officers on plying for hire investigations. They were trained in taxi and private hire legislation and to act as evidence gatherers by taking un-booked journeys in private hire vehicles. The additional resource that these officers provide adds to the impact that our own officers can make in respect of dealing with illegal plying for hire. It also addresses the problem that most drivers recognise our own officers. A number of warning signs are affixed on street furniture in the Night Time Economy areas of the city to warn private hire drivers that it is illegal to ply for hire and that they are being watched by CCTV cameras, the evidence of which can be used in court.

The team undertakes regular exercises to combat the persistent problem of illegal plying for hire, as well as conducting targeted stop check exercises to check compliance with vehicle and driver conditions. Where non-compliance is discovered, the team takes appropriate legal action according to the circumstances and whether the non-compliance relates to a breach of a licence holder's conditions of licence or amounts to a criminal offence, in accordance with Regulation and Enforcement's approved Enforcement Policy.

The team also investigates more complex issues including unlicensed vehicles, false insurance documents, false insurance claims, and applicants making false or misleading representations on application forms.

Over December 2020 the team took part in proactive exercises in the city centre to warn and take evidence of illegal street traders (masquerading as pedlars). Investigations are proceeding in relation to several individuals.

One of the primary duties and responsibilities of the team is to ensure all requests for assistance received are investigated fully and fairly. This is carried out in accordance with the Regulation and Enforcement BSI accredited management system and published service standards.

Complaints and enquiries received by the enforcement team are known as Requests for Assistance (RFAs). They are categorised and coded to identify possible trends. This also makes it possible to identify repeat offenders and take proportionally more severe enforcement action if appropriate.

During the period of 1 April 2019 to 31 March 2020, the team dealt with 927 external requests for assistance. In accordance with our Enforcement Policy, based on a risk approach, we routinely inspect private hire operators, sex establishments and premises licensed for sexual entertainment and Massage and Special Treatments. Hackney carriage and private hire vehicles are inspected at unannounced stop-check exercises. In addition, 28 licensed premises were inspected in response to either a request for assistance (RFA) from a member of the public or other business or as part of an ongoing assessment of risk.

During the year 17 high visibility stop check exercises were conducted across the city in conjunction with officers from West Midlands Police. Officers from the Central Motorways Patrol Group frequently assisted our officers. At a stop check, vehicles and drivers are inspected to ensure compliance with our conditions of licence.



Licensed drivers caught committing non-licensing offences such as not wearing seat belts or other road traffic offences are dealt with by the police. Motorway patrol officers (and the Licensing service's own police officer) are approved vehicle inspectors who are authorised to inspect vehicles to determine their condition under the Road Traffic Act 1988. Nine of the stop checks also incorporated a plying for hire exercise in which the team of special constables are deployed, whilst a further undercover exercise was completed focusing solely on touting.

During the period of 1 April 2020 to 31 March 2021, the team dealt with 726 external requests for assistance. In accordance with our Enforcement Policy, based on a risk approach, we routinely inspect private hire operators, sex establishments and premises licensed for sexual entertainment and Massage and Special Treatments. Hackney carriage and private hire vehicles are inspected at unannounced stop-check exercises. In addition, 8 licensed premises were inspected in response to either a request for assistance (RFA) from a member of the public or other business or as part of an ongoing assessment of risk.

The overall compliance rate during 2019/2020 for safety critical conditions when measured at roadside stop-checks was 82.4% for private hire vehicles and 85.1% for hackney carriage vehicles. This measure was introduced at the beginning of 2012/2013. The greatest single reason for non-compliance was for lights.

The tables below record the percentage of vehicles which were compliant with safety critical conditions when inspected in stop-checks year by year since 2012.

	<b>Hackney Carriage Vehicles % Fully Compliant with Critical Safety Conditions</b>	<b>No of Vehicles Checked</b>	<b>Private Hire Vehicles % Fully Compliant with Critical Safety Conditions</b>	<b>No of Vehicles Checked</b>
<b>2016/2017</b>	85.4	471	78.5	971
<b>2017/2018</b>	84.0%	269	80.9%	763
<b>2018/2019</b>	81.2%	207	79.3%	675
<b>2019/2020</b>	85.1%	94	82.4%	705
<b>2020-2021</b>	See note			

In addition, a further 102 vehicles licensed by other local authorities were inspected at stop check exercises.

During the operational year all licensed private hire operators' businesses were inspected. At inspection, the most common failing was the requirement to keep copies of up to date insurance certificates for drivers.

NOTE: Unfortunately, no stop check exercises were carried out in 2020-2021 due to the Corona virus pandemic

## **Licensing Policy Matters**

During 2019/20 and 2020/21 the Licensing & Public Protection Committee received reports on:

- Medium to Long-Term Emission Standard and Age Policy for Hackney Carriage and Private Hire Vehicles
- Street Trading Policy 2020
- Interim Statement of Licensing Policy 2020 consultation Report
- Clean Air Zone: Mitigation Measures for Hackney Carriage Vehicles
- Moratorium Exemption on New Issue Plate Licences Report
- Recommendations of the Working Group for Amendments to Private Hire Vehicle Signage
- Licensing Policies Procedures and Delegations 2019
- Licensing Service Fees and Charges 2021-22
- Request for an Extension to the Limited Exemption from the Moratorium on the Issue of New Hackney Carriage Plate Licences
- Department for Transport: Statutory Taxi and Private Hire Vehicle Standards Achieving Compliance
- Review of Street Trading Fees and Charges
- Impact of the Clean Air Zone (CAZ) on the Private Hire and Hackney Carriage Trade

## **Prosecutions**

### **2019/2020**

#### **Numbers of Cases**

In 2019/2020 Licensing Officers submitted prosecution reports against 36 defendants and administered 134 simple cautions. During the same period 26 prosecution cases were finalised at Court. The majority of the prosecutions were for plying for hire offences, although two were taken under the Equality Act 2010 for refusing to take passengers with assistance dogs and one under the Licensing Act 2003 and one under the Criminal Justice & Public Order Act 1994 for Touting for Hire, where the defendant receive a 6-month conditional discharge but was ordered to pay £1200 in costs

## Costs and Fines

Fines totalling £9,633 were imposed and costs of £12,852 were awarded to the City Council.

LEGISLATION	CASES	OFFENCES	FINES	COSTS AWARDED	OTHER
Criminal Justice & Public Order Act 1994	1	1		£1200	6-month conditional discharge
Equalities Act 2010	2	4	£358	£900	
Licensing Act 2003	1	4	£615	£1550	
Local Government (Miscellaneous Provisions) Act 1976					
Section 48	2	2	£690	£1365	
Section 54	1	1	£300	£300	
Section 64(3)	1	1	£147	£100	
Town Police Clauses Act 1847 (plying)**	18	36	£7,523	£7,437	116 penalty points
<b>TOTALS</b>	<b>26</b>	<b>49</b>	<b>£9,633</b>	<b>£12,852</b>	

## 2020/21

### Numbers of Cases

In 2020/2021 Licensing Officers submitted prosecution reports against 14 defendants and administered 8 simple cautions. During the same period 20 prosecution cases were finalised at Court. The majority of the prosecutions were for plying for hire offences, although three were taken under the Equality Act 2010 for refusing to take passengers with assistance dogs and two under the Licensing Act 2003.

## Costs and Fines

Fines totalling £3,999 were imposed and costs of £6,491 were awarded to the City Council.

LEGISLATION	CASES	OFFENCES	FINES	COSTS AWARDED	OTHER
Equalities Act 2010	3	3	£507	£1,350	
Licensing Act 2003	2	2	£450	£1,400	
Town Police Clauses Act 1847 (plying)**	15	28	£3,042	£3,741	108 penalty points
<b>TOTALS</b>	<b>20</b>	<b>33</b>	<b>£3,999</b>	<b>£6,491</b>	

### Appeals against Sub Committee Decisions

The following tables list the number of cases proceeding to Court during the 19/20 and 20/21 period, together with outcomes:

### **Appeals against Sub Committee Decisions**

	Dismissed	Allowed	Allowed in part	Withdrawn pre- or at Court	Other	TOTAL
<b>General Licensing</b>						
<b>2019/20</b>						
Magistrates' court	0	1		3	2 consent order, 1 referred back to committee.	7
Crown Court						
<b>2020/21</b>						
Magistrates' court	2	1			3 consent order	6
Crown Court						
<b>HCPH</b>						
<b>2019/20</b>						
Magistrates' court	17	3				20
Crown Court	1					1
<b>2020/21</b>						
Magistrates' court	2	7				9
Crown Court	2	1				3

### Work of the Licensing Sub-Committees

The following matters were put before the Licensing Sub Committee:

'General Licensing' (LA2003, MST and SEV) matters:	2019/20	2020/21
<b>Total matters scheduled</b>	<b>111</b>	<b>84</b>
Grant of Licence	41	42
Variation	11	8
Transfer	4	2
Designated Premises Supervisor Variation	2	4
Temporary Event Notice	21	7
Personal	4	1
Expedited Review	9	5
Interim Steps Meetings	4	5
Reps back to Interim Steps	2	2
Review	11	6

Closure Order	0	1
Massage and Special Treatments	2	0
Sexual Entertainment Venue	0	1

<b>Hackney Carriage &amp; Private Hire matters</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Total matters scheduled</b>	<b>303</b>	<b>n/a</b>
Matters considered under delegated authority owing to pandemic response.	<b>n/a</b>	<b>158</b>

### **Service Delivery Plan 2019/2020 and 2020/21 – Outturn**

The Service Delivery Plan identifies targets and levels of performance. In order to ensure the delivery of quality services, the Licensing Service operates within the Regulation and Enforcement ISO9001 accredited management system (REMS).

The Licensing Service is committed to a programme of activities designed to ensure that our Service Provision and Service Standard targets are met.

<b>Service Provision</b>	<b>Acceptable Quality Level</b>	<b>Annual Outturn</b>	
		<b>2019/20</b>	<b>2020/21</b>
We will respond to all General Licensing applications in a timely manner: Percentage of applications processed within 60 days*  *Subject to tests and Committee timetable	90%	97.9%	85.0%
We will respond to all HC & PH Licensing applications in a timely manner:	90%	100%	100%
We will respond to Requests for Assistance (RFA's): Percentage of RFA's responded to within 10-day target	97.5%	93.5%	96.8%
Percentage of successful licensing prosecutions	95%	100%	95%
Percentage of personal callers to Licensing seen within 15 minutes of their appointment time	97%	100%	<b>*n/a</b>

**\* Owing to the COVID-19 Pandemic the Licensing Service ceased to offer a face to face service.**



**BIRMINGHAM CITY COUNCIL**

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

**23 JUNE 2021**  
**ALL WARDS**

**STREET TRADING POLICY 2020 - JUDICIAL REVIEW**

1. Summary

- 1.1 The City Council considered and approved the Street Trading Policy 2020 on 3 November 2020.
- 1.2 In January 2021 two long standing street traders applied to bring an expedited judicial review against the Council.
- 1.3 The judicial review was heard by the High Court on 7 and 8 April 2021.
- 1.4 On 7 May 2021 the judgement was handed down. That being that the judicial review was dismissed in its entirety.

2. Recommendations

- 2.1 That the report be noted.

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### 3. Background

- 3.1 Birmingham City Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 3.2 This legislation allows the Council to set a policy, conditions and fees for the grant, variation, renewal and revocation of street trading consents or licences.
- 3.3 Birmingham adopted street trading provisions in 1991, which stated all public roads are classified as 'consent streets' for the purposes of street trading. No formal Street Trading Policy was adopted further to this.
- 3.4 In order to ensure that street trading in Birmingham reflects the current needs, the Street Trading Policy 2020 was approved by Full Council on 3 November 2020. This was after lengthy consultation on the draft policy which commenced on 16 December 2019 and concluded on 23 February 2020. A further opportunity for the public to comment was given in July 2020 (6-26 July 2020).
- 3.5 The new policy designated certain streets as prohibited streets (red routes and metro lines), all other streets in Birmingham remained consent streets except for 51 specific parks and open spaces which were not given a designation. These designations came into force on 6 December 2020.
- 3.6 The new fees and charges for the year 2021/22 (under the new policy) were approved by your Committee on 18 December 2021.
- 3.7 On 19 December a 6-week window for 2021 to 2022 street trading consent applications. This relates to street trading consents commencing from 1 April 2021. This enabled all initial applications to be considered at the same time. Subsequent applications were and are being considered chronologically.

### 4. Judicial Review

- 4.1 On 28 November 2020 the Council received a "Pre Action Protocol" from Simpson Millar LLP acting on behalf of the claimants of the eventual judicial review, Mr. and Mrs. Poole. In this protocol they laid out initial grounds for their action and requested that a pause in the implementation of the policy to avoid litigation and to seek to find common ground. (Note: the consultation on this policy had been extensive and had included both the Claimants and the Birmingham Street Traders Association, whom it was stated in the pre action protocol that Mr. and Mrs. Poole were proposing making the judicial review on behalf of, as well as themselves in their own right.)
- 4.2 The Council's response was to the effect that we did not agree with the grounds of their submission and we would not be suspending the policy.
- 4.3 On 21 January the claimants made an application for an expedited judicial review.



- 4.4 The judicial review was heard on the 7 and 8 April 2021 at the High Court.
- 4.5 Jonathan Manning of 4-5 Gray's Inn Square appeared for Birmingham City Council.
- 4.6 Sarah Sackman and Conor Fegan of Francis Taylor Building appeared for the claimants, instructed by Simpson Millar.

## 5. **Grounds of Judicial Review and Remedy Sought**

- 5.1 The Claimants make reference throughout the judicial review to an Innovative Products Criterion that they label as the "IPC". This criterion does not exist. There are 12 stated criterion that are considered in an assessment of a street trading consent application. One of these 12 criterion is "selling the right goods" within this criterion there is reference to innovative approach/products being considered.

- 5.2 There were five grounds to the judicial review:

**(i) Ground 1 — The "innovative products" criterion breaches Regulation 15 of the Provision of Services Regulations 2009 (the "Services Regulations") because it is not in pursuit of a legitimate aim and is disproportionate:**

The Policy says that a "key consideration" is whether the applicant is "selling the right goods", which includes a consideration of whether the applicant is selling "innovative products". That criterion falls foul of Regulation 15 because it interferes with the freedom to provide services in a way that is not in pursuit of a legitimate aim and is disproportionate;

**(ii) Ground 2 — The "innovative products" criterion breaches Regulation 21 of the Services Regulations because it impermissibly subjects the grant of a consent to an economic test:**

The grant of consent must not be subject to a "case by case application of an economic test" (Regulation 21(1)). But that is exactly what the innovative products criterion does; it makes the grant of a consent subject to a test of the "appropriateness of the activity in relation to the economic planning objectives set by the competent authority", those objectives being those set out in the Policy to improve the quality of the street retail offer in Birmingham, and in effect leads to the "indirect involvement of competing operators" in the consenting process;

**(iii) Ground 3 — The "innovative products" criterion breaches Regulation 18 of the Services Regulations because it not clear and is dissuasive:**

The innovative products criterion is "dissuasive" (Regulation 18(2)). It involves council officers making a subjective judgement about the type and quality of goods. The First Claimant has explained the effect of this criterion on traders like him who will be applying for a consent under the Policy;

(iv) **Ground 4 — The general conditions are not reasonably necessary:**

The list of general conditions in the Policy are not “reasonably necessary” (Schedule 4, Paragraph 7(4) Local Government (Miscellaneous Provisions) Act 1982). Many of them duplicate requirements and controls in other statutory regimes, and fall outside the purpose of the legislation

(v) **Ground 5 — The innovative products criterion is contrary to the statutory purpose of the Local Government (Miscellaneous Provisions) Act 1982:**

The power to regulate street trading that is set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 must be exercised for the purpose that it was intended; that is to ensure that street trading is safe and regulated in the interests of consumers. Introducing an “innovative products” criterion with a view to influencing the “quality” of goods sold on the street is not a lawful use of the powers in Schedule 4. There is no statutory indication that the street trading consent regime was intended to achieve economic objectives like that

**REMEDY SOUGHT**

- (i) An Order quashing Birmingham's new Street Trading Policy
- (ii) A declaration that the innovative products criterion is unlawful
- (iii) An Order quashing any consents granted in reliance on the Policy, as decisions based on the application of an unlawful policy should not stand. (note: *this remedy was withdrawn prior to the hearing*)
- (iv) Costs

**6. Judicial Review Outcome**

6.1 On 7 May 2021<sup>10</sup> the High Court judgement dismissed Street Trading judicial review in its entirety. The Council was awarded an £11,000 interim payment of costs (by 28 May 2021). *Note: Agreement has now been reached with the Claimants and they have pay Council costs of £23,000 by 28 May 2021.*

6.2 The judge refused the Claimants application for permission to appeal although they can go directly to the Court of Appeal if they choose.

The full judgment of the court is available by request to [streettrading@birmingham.gov.uk](mailto:streettrading@birmingham.gov.uk)

6.3 Below is an extract from an article that appeared on the Local Government Lawyer website on 10 May 2021 that summarises the outcome on each ground.

### **Ground 1 outcome**

On the first ground, Sarah Sackman, counsel for the claimants, argued that the "Innovative Products Criterion" (the IPC) laid out in the policy breached Regulation 15 (2)(b) of the 2009 Regulations, which says that any criteria set out in an authority's authorisation scheme must be "justified by an overriding reason relating to the public interest".

Ms Sackman said that the IPC was a criterion on which the consent policy was based but that it was not "justified by an overriding reason relating to the public interest". It could not be so justified, she said, because it had an economic objective, and ECJ case law (*Commission v Spain* [2011] 2 CMLR 50) established that "purely economic objectives cannot constitute an overriding reason in the public interest".

Considering this, Judge Cooke said: "Insofar as the ECJ has held matters to be excluded from the permissible scope of public interest on the grounds of pure economic consideration it has been considering much more serious and targeted measures directly bearing on the freedom of establishment of businesses across state boundaries in violation of (now) the TFEU."

He added: "The provision in question here is not such a measure; it is part of an overall package of considerations which are properly considered together since their application is one of combined evaluation by the Council rather than separate individual consideration.

"That package is plainly not in my view 'purely economic', though it is obvious that some or all of its components have economic effects, in the wide sense that they affect the way in which business is carried on or impose costs on businesses, or even in the almost as wide sense that Ms Sackman contends for."

Instead, the package is "predominantly concerned with other matters," Judge Cooke said, "such as the enhancement of the urban environment that are, in my judgment, equally plainly matters of proper concern for an authority such as the Council".

Judge Cooke rejected the argument that the IPC was not justified by a reason relating to the public interest.

### **Ground 2 outcome**

On the second ground, the claimants submitted that the IPC amounted to a case-by-case application of an economic test making the granting of authorisation subject to an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority, contrary to Regulation 21(1)(e) of the 2009 Regulations.

Secondly, Ms Sackman argued that the IPC created an indirect involvement of competing operators in the granting of authorisations, contrary to Regulation 21(1)(f).

According to Judge Cooke, Regulation 21 applies to an "economic test" assessing the "appropriateness" of an activity against "economic objectives" of the authority. But the council is not applying any economic test when it considers the IPC in relation to an application, Judge Cooke said, since "it does not consider the economic result of effect of selling the goods, either on the market as a whole or on other participants, but only whether they are different in some respects from others available locally." Judge Cooke rejected the argument.

Turning to the claim that competing operators could indirectly influence the granting of authorisations, Judge Cooke rejected the contention that the IPC was likely to be decisive in a significant number of cases.

He said: "In any particular application, it may or may not be relevant at all and if it is it will be a matter of chance whether it has any determinative effect on the outcome. In those circumstances, in my judgment, any connection between a competitor's actions and the outcome of an application is too remote and fortuitous for it to be considered that he is involved, even indirectly, in the making of the decision and I reject the argument to that effect."

### **Ground 3 outcome**

Ms Sackman's third ground argued that the IPC was not "clear", "unambiguous" "objective", or "transparent and accessible" contrary to Regulations 15(2) (d)(e) and (g), which made the application procedure "dissuasive" and "unduly complicate", contrary to Regulation 18(2).

Referring to Ground 3, Judge Cooke said that in his judgement there was nothing in these points.

He added: "It would be overinterpreting the Regulations and the [Services] Directive to require an absolute degree of certainty in advance as to the outcome of an application, such as the claimants in effect contend for. It is no doubt the case that to the extent the IPC comes in to consideration it involves an exercise in evaluation by the Council's officers, but so do many of the other criteria that are not objected to.

"It may be said that the drafting leaves something to be desired in that it states that 'innovative approach' will be considered, but then goes on to define (and refer in the assessment framework to) a different term, 'innovative products'. But this is no more than the degree of inconsistency frequently encountered in all manner of documents and does not lead to any real difficulty in interpretation by the court or applicants as to what is meant - an "innovative approach" must mean selling 'innovative products. The condition is sufficiently 'clear' and 'unambiguous'."

#### **Ground 4 and 5 outcome**

The final two grounds (4 and 5) were taken together by the judge. The claimant submitted that the 1982 Act has a limited statutory purpose, i.e., to regulate street trading in the interests of safety, the protection of the public and protection of public rights such as rights of traffic. As a result, anything beyond that, and in particular anything amounting to an economic objective such as influencing what goods are sold was outside that purpose and so unlawful, Ms Sackman claimed.

Judge Cooke said: "Certain of the conditions attached to consents are not, she says reasonably necessary for such a purpose and so not within the powers given to the Council under Sch 4. The statement of grounds seeks to attack the requirement of the policy that applicants must specify what goods they intend to sell and that the consent granted will be limited to sale of the specified goods as outside this purpose and a restriction on competition since no similar condition attaches to fixed shops.

"In relation to that, it sufficient [sic] in my judgment to say that there is no foundation for such a statement of purpose whatever in the 1982 Act itself. On the contrary, the powers and discretions it creates are expressed in entirely general terms."

He added: "The requirement to specify the types of goods sold is, as is apparent from the policy and preceding documents, imposed because the Council wishes to ensure that street traders take adequate responsibility for ensuring that their goods are of minimum legal standards and are not, for instance counterfeit, and that their officers will have effective powers to enforce such matters.

"Pursuing such a purpose cannot be said to be outside the statutory purpose of the Act (and would be within even the limited purpose Ms Sackman argues for). It is no objection that there may be other measures available to enforce compliance with such legal standards, such as prosecution by trading standards officers. The Council is entitled to take the view that the possibility of revocation of a consent is an appropriate additional weapon in its compliance armoury."

#### **Claim outcome**

Judge Cooke dismissed the claim.

Concluding his judgment, he said: "In case the matter goes further however I should say that had I been with the claimants on any of the matters relating to the IPC, which was the principal focus of their claim, I would not have made an order quashing the policy as a whole, or quashing the decision to adopt it, but limited any remedy to a declaration that would have prevented the council from taking the IPC into account in any assessment of an application.

"Ms Sackman submitted that where a decision was found to be unlawful, the normal remedy is for the decision to be quashed and remitted so that it may be taken again lawfully. But questions of remedy are as she accepts discretionary, and it would in my judgment be wholly disproportionate to quash the entire policy because one small aspect of it was found to be unlawful. If the policy were quashed, the council would have no basis in place to regulate the existing consents or evaluate new ones, until it was able to put a new policy in place, which would likely entail the expense and delay of a further consultation process."

Judge Cooke added: "The policy would however be perfectly operable without the IPC, which is unlikely in any event to come into consideration until 2022 when existing consents fall to be renewed and there may be competition for pitches. By that time, the policy will have been reviewed and, if it had been found that the IPC was unlawful, it would no doubt be removed during any such review."

## 7. Consultation

- 7.1 Consultation was not required in this matter

## 8. Implications for Resources

- 8.1 The costs for this judicial review have been met almost entirely by the Claimants. The total cost to the Council was £26,237.32. A settlement of £23,000 has been reached with the Claimants and has been paid by 28 May 2021.
- 8.2 It was considered prudent to make a settlement to ensure that further costs and time was not spent in any formal process to agree and pursue costs.
- 8.3 The remaining £3,237.32 will be met through the Street Trading budget within the portfolio of this Committee.

## 9. Implications for Policy Priorities

- 9.1 The outcome of this judicial review has reinforced the ability of the Council to make policy that underpins the City Council Vision, Birmingham is an entrepreneurial city to learn, work and invest in, Birmingham is an aspirational city to grow up in, Birmingham is a great city to live, Birmingham is a fulfilling city to age well in.
- 9.2 Furthermore this policy will ensure Birmingham residents and businesses gain the maximum benefit from hosting the Commonwealth Games by supporting legitimate street trading.
- 9.3 The policy also supports the Regulation and Enforcement Mission Statement: Locally accountable and responsive fair regulation for all – achieving a safe, clean, green and fair trading city for residents, business and visitors.

10. Public Sector Equality Duty

10.1 The policy considered and complied with this duty.

**INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

**Background Papers:**

Street Trading Policy 2020

Local Government Lawyer website: "Street traders lose legal challenge over "innovative product" criterion imposed by council" published on 10 May 2021

*R on the application of (1) Allan John Poole and (2) Samantha Poole v Birmingham City Council*





**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE INTERIM ASSISTANT DIRECTOR  
OF REGULATION AND ENFORCEMENT**

**TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**23 JUNE 2021**  
**ALL WARDS**

**TACKLING ILLEGAL PLACARDING**

1. **Summary**

- 1.1 This report summarises the work undertaken by trading standards in 2020/21 to tackle illegal placarding (fly-posting), either placed on street furniture or on private property.

2. **Recommendations**

- 2.1 That the reported be noted.

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Originating Officer: Tony Quigley, Head of Service

### 3. **Background**

3.1 Illegal Placarding, ('Fly-Posting') can typically be posters, placards or banners. They are used to advertise businesses, services or sometimes specific events and are placed on street furniture such as lampposts, traffic lights, railings and other signs and receptacles.

3.2 The presence of these placards spoils the local environment and street scene for the community. They can also be a danger to road users by limiting the line of sight, as well as giving a poor image of the city to visitors driving into the city.

Further, there is a significant consumer protection perspective when the only contact for these businesses is the use of a mobile telephone. Clarity of the business' details are important for consumers if things go wrong, as experienced by Trading standards who have found difficulties identify some individuals who are using this platform to advertise their business.

3.3 Unauthorised placarding creates an unfair advantage over competing businesses who utilise legitimate forms advertising to promote their goods and services.

3.4 Consequently, there is concern that unscrupulous traders will use this ploy and not reveal their true identity or address.

3.5 Placing placards on the public highway or affixing to Birmingham City Council causes damage to "Street Furniture", and there is cost to the public purse associated with the repair and for removing the placards.

3.6 The issue has been addressed by Regulation and Enforcement in previous years. Last year, Trading Standards were tasked with tackling the issue and bringing the perpetrators into compliance.

### 4. **Legislation**

4.1 Any person who places signs on a public highway or affixes them to structures on the highway (such as trees, lampposts and street railings) without authorisation, commits an offence under Section 32 of The Highways Act 1980, which can result in a fine of £100 or £200 for repeat offending.

4.2 The Act also gives powers to authorised officers to remove such signs from the public highway and structures they are on.

4.3 In addition, Section 224 and 225 of The Town and County Planning Act 1990 provides further offences provisions where the person responsible can be identified; a notice can be served on them to remove the placard. Offences under this Act can result in a fine up to £2,500.

- 4.4 In cases where a person persists or continues to display illegal placards advertising their business, this can be deemed to have a detrimental effect on the quality of life in the local area with unwanted placards attached to lampposts and street railings. As such, this can result in the serving of a Community Protection Notice under the Anti-Social Behaviour Crime and Police Act 2014. Breach of an order can result in a fine of up to £2,500 for an individual or up to £20,000 for a company.

## **5. Approach**

- 5.1 Where placards were located, they would be photographed in-situ and removed. Where a phone number was displayed, the number would be called and the person responsible would be advised this was an illegal practice.
- 5.2 Where, following this call, the person identifies themselves and their business, an advisory letter would be sent. The letter would also request that all adverts were removed by them as quickly as possible.
- 5.3 Following subsequent exercises, if placards relating to the same business were found, a further warning letter would be sent advising the person responsible that a fine and/or Community Protection Notice may be served if placarding continues.
- 5.4 If placards of the same business continued to be displayed and a person has been previously warned and new further placards were found to have been displayed, consideration would be given to serving a Community Protection Notice.
- 5.5 Where a business identified was of a type such as gardening, builders, driveways, roofers, the advisory letter would be accompanied by further guidance leaflets on Trading Standards legislation.

## **6. Findings**

- 6.1 Trading Standards have conducted four exercises over the last year tackling placards across the city.
- 6.2 The first of these exercises took place in July 2020 where officers went to locations where placards had been identified.
- 6.3 In this exercise, over 120 placards were removed and some 35 different individuals/businesses identified. The businesses were of a wide variety ranging from builders, gardeners, driveways, kitchen fitting/suppliers, blinds and even tuition providers.



- 6.9 One further exercise took place in February 2021. In contrast to the September and November 2020 exercises where there had been significantly reduced numbers, the February exercise resulted in over 200 placards being identified and removed.
- 6.10 Of particular note was one business offering boiler installation services, displaying over 90 placards across the city. When officers initially contacted the business, they were not fully cooperative in identifying themselves. This remained the case until a representative was invited to attend a house. A business has now been identified and warning letter has been sent.
- 6.11 Also, another blinds company, different to those we had encountered previously, also displayed 20-30 placards. The business has been advised.
- 6.12 One point of concern remains where the business attempt to persuade the caller to invite them to their house, and then they will quote for example for bespoke made to measure blinds. Trading Standards advice would strongly recommend not inviting anyone into your house if they have not properly identified themselves and their business details.
- 6.13 Most of the placards seen in later exercises have been for different business to that seen and contacted in earlier exercises. There have been just a few exceptions. In a few cases the business has hired third parties to place the placards and doesn't know locations of all the placards. One such example has been a property business previously advised which has now been given a final warning. Contact details of those employed to erect the signs have been sought. Another example has been a kitchen installation business where further placards have recently been seen, enquires are being pursued.

## **7. Further Work**

- 7.1 It is clear that whilst significant progress has been made, new businesses still come along and place placards along the highway.
- 7.2 Trading Standards will continue with further exercise in 2021-2022 and envisage formal action for persistent offenders.

## **8. Implication for Resources**

- 8.1 The work identified in this report has been carried out with existing Trading Standards resources; no further resource implications have been identified.

## **9. Implications for Policy Priorities**

- 9.1 Action taken to remove illegal placards protect the interest of legitimate traders from unfair competition and enables them to prosper.

9.2 Illegal placards also are a blight on the local street scene, their removal contributes to desired outcome of safer and clean streets. Improving the street scene is also important in giving a positive image of the city as we expect more visitors to the city with the Commonwealth Games approaching next year.

10. **Public Sector Equality Duty**

10.1 No significant impact identified.

**PAUL LANKESTER**  
**INTERIM ASSISTANT DIRECTOR REGULATION & ENFORCEMENT**

**BIRMINGHAM CITY COUNCIL**

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

**23 JUNE 2021**  
**ALL WARDS**

**REGULATION & ENFORCEMENT ACTIVITY REPORT**  
**FEBRUARY & MARCH 2021**

1. **Summary**

- 1.1 Birmingham City Council's Regulation and Enforcement Division covers range of statutory functions including enforcement activities.
- 1.2 The purpose of this report is to provide the Committee with information as to the scale and type of activities that have been ongoing in the current financial year. This period covers the month of February and March 2021.

2. **Recommendation**

- 2.1 That the content of the report be noted.

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### 3.0 Background

- 3.1 The range of functions exercised by officers on behalf of the City Council are varied and occur across all parts of the city. The overview of activities in February and March 2021 is set out in the Appendix to this report.

### 4. Consultation

- 4.1 No public consultation has taken place, as this is an information report.

### 5. Implications for Resources

- 5.1 None

### 6. Implications for Policy Priorities

- 6.1 None

### 7. Public Sector Equality Duty

- 7.1 No further equality issues have been identified, as all enforcement activities are carried in accordance with the adopted enforcement policy, which was the subject of an equalities impact assessment.

## **INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil



## **REGULATION & ENFORCEMENT ACTIVITY REPORT** **FEBRUARY & MARCH 2021**

### **Introduction**

The way the Council enforces its regulatory activities under the terms of the relevant legislation has altered significantly since the outbreak of Covid 19. Changes have been made to comply with national guidance and the introduction of new legislation. This report provides a snapshot of enforcement activity for the services in Regulation and Enforcement since lockdown. While services are seeking to enter the recovery phase, many services are reliant on changes to Government legislation and guidance.

### **Detailed Action**

The table below sets out the activities undertaken in Q1 (April to June); Q2 (July to September) Q3 (October to December) and Q4 (January to March 2021)

### **Environmental Health and Trading Standards**

Activity	Env. Health				Trading Standards			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Prosecution agreed	57	76	75	69	7	7	1	11
Simple Cautions	4	4	3	1		4	1	2
Statutory Notices served	26	58	44	74				
Coronavirus Enforcement	254	1,709	2,142	1,225				
Requests for Actions Received	10,946	13,617	10,248	3,938	1,118	1,364	1,206	1,370
Requests for Actions closed	10,307	12,687	9,123	3,038	1,252	1,348	1,240	1,360

*Activity Table for Environmental Health and Trading Standards*

### **Environmental Health**

	Q1	Q2	Q3		Q4		Year Total
Work type	RFA Total	RFA Total	RFA Total	PI Target met	RFA Total	PI Target met	RFA Total
Accidents	92	109	76	76	23	23	300
Dogs	415	549	487	484	172	169	1,623
Infectious Disease	122	169	159	151	45	44	495
Pest Control	4,159	5,292	3,514	3,475	1,147	1,136	14,112
Request for Assistance	6,158	7,498	6,012	4,327	2,551	2,106	22,219
<b>Total</b>	<b>10,946</b>	<b>13,617</b>	<b>10,248</b>	<b>8,513</b>	<b>3,938</b>	<b>3,478</b>	<b>38,473</b>

*Analysis of Requests for Assistance (RFA)*

The analysis of the types of activity in Environmental Health is shown above.

The Service continues to undertake inspections and provide advice on Covid compliance. Through monies provided by the Director of Public Health we are recruiting 8 extra officers solely focused on Covid compliance checks.

Additionally, the Government has announced nationally the investment of £30m for increased Enforcement and Compliance checks. Birmingham's share of this is £889k to be spent in the four months ending February 2021.

The Environmental Health Covid Response Team (Enforcement, compliance, outbreaks and contact tracing) consists of Enforcement Officers and Covid Marshals. The Compliance and Enforcement Grant (Government Covid grant monies) has financed 32 Covid Marshals, three Covid Marshal supervisors, two business support staff and an additional three Enforcement Officers. These additional temporary staff have complimented the Environmental Health substantive Covid response team and management.

From March 2021 the Compliance and Enforcement programme is due to cease and at present there is no indication from Government as to whether further funding will be allocated to continue this service.

Since November 2020, 14,500 city businesses have been checked for compliance by the Marshals and Covid Enforcement Officers

### **Covid Marshals**

The Covid Marshals are the non-regulatory, customer facing Covid service of the City Council. This uniformed service provides advice, support, mitigations, encouragement and a presence to residents, visitors and Birmingham businesses.

Their day to day role includes patrolling the streets of Birmingham - Covid Marshal have been deployed in 100% of City Wards since their introduction - particularly in high footfall areas and where the infection rate is highest. Such areas include shopping centres, parades, internal shopping malls; school gates and similar parent waiting areas in response to requests from School Heads for assistance. The work undertaken is to encourage the wearing of face coverings; informing and discussing with businesses Covid mitigations and controls; sharing of good practice from one business to another; assisting with social distancing for queuing outside businesses such as food banks, click and collect stations and latterly at surge testing sites.

Since November 2020 the Covid Marshals have assisted 3,040 business and fielded 3,728 queries from members of the public whilst on patrol. The service is a 6-day service (Monday to Saturday).

Where compliance cannot be secured through informal means, non-compliance intelligence is forwarded to the Enforcing Officers. Recently, the Covid Marshals have been involved with a supermarket compliance project. They have handed out face coverings to shoppers who had forgotten their own as well as auditing the shopping experience by looking at signage, hygiene stands and the usage of customer messages on social distancing and face coverings. This has improved engagement by some stores in trying to manage their own Covid security.

In Birmingham Covid Marshals offer and distribute face protection to anyone not found to be wearing it. Since December 18,000 face masks have been given out to members of the public by the Covid marshals. If each was used in three shops on average on that day, this equates to 54,000 encounters where it is less likely the virus would have been spread. This was particularly important around the Christmas shopping season and latterly within businesses that can legally remain open.

In the Covid Marshal team are three Covid supervisors providing support to the Marshals. These are pivotal roles which set patrols, maintain marshal bubbles, provide training and supervisory health and safety cover for staff and deal with issues arising from their work. Each supervisor acts as an enforcement officer, when necessary.

### **Covid Marshals in Parks**

Birmingham Parks deployed eight Covid Marshals to help alleviate some problems Birmingham's parks experienced throughout the early part of the pandemic. There were groups of people drinking and partying in parks. These became large gatherings during lockdowns, necessitating Police attendance on multiple occasions.

Two Covid Marshals were placed in the north of the city focusing on Sutton Park and other neighbouring parks. Sutton Park had been one of the sites disproportionately affected over the summer of 2020 with significant mass gatherings and very little social distancing. The other six Covid Marshals have provided a mobile task force which have covered other locations across the whole of the city.

Despite parks being quieter than at their peak in the summer months there has still been an increase in footfall compared to the same time last year. The Parks Covid Marshals have targeted those parks where there have been issues with gatherings and poor social distancing. The Park Covid Marshals provide a visible presence in parks, deterring poor adherence to current Covid guidance or making visitors think about their behaviours a little more. The Covid Marshals have been on hand to give advice, advise parks visitors of the current Covid guidelines, advise on where and how visitors can get tested, and to hand out masks to visitors where appropriate and needed. In the few months the Covid Marshals have been operational they have had over 300 interactions with park visitors giving advice and ensuring visitors stay safe. As the weather warms up and parks once again come into greater demand the work the Covid Marshals have been undertaking will become more essential.

### **Covid Enforcement Officers**

The 10 officers provide a range of roles to complement the substantive Environmental Health Service Covid response. Each officer is authorised under the control of disease legislation and health and safety legislation (for powers of entry). They investigate Covid complaints and whistleblowing enquiries. Many of these complaints relate to face coverings and the lack of their use. In addition, we respond to complaints about businesses that have remained open and should be closed. They also look at business risk assessments to ensure the workers are safe and our customers.

Enforcement Officers play a pivotal role, through patrols, with encouraging compliance with business restrictions. These patrols are often with W.M Police and it means that we can tackle both business and individual compliance. A patrol is usually made up of two Police and two Enforcement Officers and last for four to five hours. They focus on large shopping areas and high streets, particularly the arterial routes. This means they can be looking at 400 to 500 businesses, albeit a lot of these are assessments to ensure they are closed in accordance with lockdown. These patrols are now directed to the wards with the highest incidence of Covid per 100k population. A total of 112 joint enforcement patrols have been undertaken.

Covid Enforcement Officers have been obtaining and assessing risk assessments for businesses. Lots of premises are compliant but they often find that the non-work areas (such as break-out areas, kitchens and smoking areas) have no supervision and control. Advising business owners on where to be vigilant is also a valuable contribution to avoid spread and lost trading days.

The enforcement officers are now being deployed in outbreak investigations and latterly provided support for contact tracing especially non-responsive (to telephone contact) and potentially non-isolating positive cases.

1,795 enforcement actions have been taken by Covid Enforcement Team, including 1,369 compliance visits following complaints from members of the public. Enforcement officers are seeing a reduction in compliance due to fatigue in the population and are now stretched in delivering their services.

A fuller report on this and further projects undertaken through these monies will be provided at a future committee.

The courts are now sitting, and hearing submitted prosecution cases and the City Council is again looking to submit cases rather than deal with matters via simple cautions in-line with our enforcement policy.

The service has been successful in agreeing a Primary Authority Partnership with Marks & Spencer PLC covering food safety, food hygiene and food standards. This adds to the current partnership with the company covering health & safety at work.

Inspections of food businesses continue in accordance with guidance from the Food Standards Agency. Inspections have been prioritised and include manufacturers and those where a complaint has been made, in addition to appropriate follow up activities including revisits. Officers are also providing substantial support to businesses to enable them to continue trading safely at this time.

The food statistics for December and January are:

- Programmed Inspections completed 166
- Enforcement revisits undertaken 54
- Ratings revisits requested and carried out 11
- Food business closures 2
- Statutory notices served 52
- Allergen stop requirements issued 62
- Business supported to ensure compliance 119

The service has provided an officer to support health and safety compliance, including Covid compliance, at the Birmingham Wholesale Market. The officer is undertaking individual health and safety and covid assessments at business units, in addition to reviewing site management practices covering Covid security, traffic management, waste collection services and pedestrian site access. This activity is reported through the Director of Neighbourhoods to the Wholesale Markets Board.

### **Animal Welfare**

The interest in buying puppies during lockdown has been widely reported and has resulted in high prices being sought and paid. This has led to an increase in dog breeding and on-line puppy sales. Officers have noticed an increase in welfare complaints in relation to puppies being bred in poor conditions. Officers provide advice to hobby breeders and have identified some that have required licensing. Advice is also provided to consumers on how to buy a puppy responsibly.

The owner and manager of a licensed pet shop was successfully prosecuted following an inspection of the premises revealed offences under the Animal Welfare Act 2006, the Pet Animals Act 1951 and the Wildlife and Countryside Act 1981. Each were disqualified from keeping any animal for a period of 10 years and ordered to pay costs of £2,815 costs. A subsequent appeal was dismissed; however, one defendant had his ban reduced from 10 to 7 years.

Officers continue to deal with the emergency boarding of animals, where an animal's owner has been taken to hospital or detained under the Mental Health Act. This included dealing with a variety of animals including cats, dogs, rabbits, birds and also a corn snake brought into a hospital's accident and emergency department by its owner who was suffering from mental health issues. This continues to be a challenging area of work due to the complexity of cases and diverse types of animals encountered

### **Regional Mortuary**

Following the peak in Covid cases through December and January there was a significant increase in deaths across the seven metropolitan authority areas, (Wolverhampton to Coventry) and Warwickshire County Council.

As a result, a decision was made by the authorities' Chief Executives to re-open the temporary mortuary at Birmingham Airport. Your officers are responsible for ensuring compliance with the Human Tissue Authority licence conditions. The team pulled together to reopen the facility within 48 hours. The operational side is run by Coventry Hospital and Birmingham Central Mortuary staff and West Midlands Police leading on security and control of access to the facility. The three partners have worked together extremely well to ease the pressures on the NHS mortuaries and any funeral directors who were finding difficulty in looking after bodies prior to funerals.

### **Licensing**

Activity in the Licensing Service has increased of late and the service is close to returning to 'business as usual', though lockdown restrictions do impact on this extensively. Activity in Licensing Sub Committees did increase following the opening of the hospitality sector.

In total 140 matters have been finalised through the delegated process, which would have ordinarily come before the sub-committee. 29 of which were finalised in December /January.

During Q4 2021 no Summary / Expedited Review applications were submitted by West Midlands Police.

Activity	Licensing							
	HCPH*				General			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Prosecution agreed	8	1	1	0		1	2	
Simple Cautions	16	3	3	1			1	
Statutory Notices served								
Coronavirus Enforcement					33			
Licence applications	195	512	661	389	196	397	383	324
Licence sub-committees					14	31	21	18
Of which were reviews:								
Interim steps					1	1	5	0
Expedited					2	1	3	0
Standard					3	0	0	2
Licence renewals	343	1538	1717	1381	9	26	52	20
Requests for Actions Received	166	315	417	594				
Requests for Actions closed	287	268	390	625				

## Analysis of RFAs

The breakdown of types of Requests for Assistance in Licensing is shown below.

	Q1		Q2		Q3		Q4	
	Received	Closed	Received	Closed	Received	Closed	Received	Closed
<b>Total</b>	<b>166</b>	<b>287</b>	<b>315</b>	<b>268</b>	<b>417</b>	<b>390</b>	<b>594</b>	<b>625</b>
<b>Hackney Carriage</b>	4	22	24	19	20	22	68	72
<b>Private Hire</b>	104	190	206	175	319	297	453	453
<b>Licensing Act 2003</b>	51	64	76	63	64	58	65	91
<b>Gambling Act 2005</b>	0	3	0	0	1	0	1	1
<b>Scrap Metal Dealers</b>	7	7	7	9	9	10	5	6
<b>Sexual Entertainment Venues</b>	0	1	0	0	0	0	0	0
<b>Massage &amp; Special Treatments</b>	0	0	2	2	1	2	1	1
<b>Charitable Street Collections</b>	0	0	0	0	0	1	0	0
<b>Street Trading</b>	0	0	0	0	3	0	1	1

## Scrap Metal Dealers

There are currently 67 licences issued in Birmingham under the Scrap Metal Dealers Act 2013. The breakdown of licences issued is as follows:

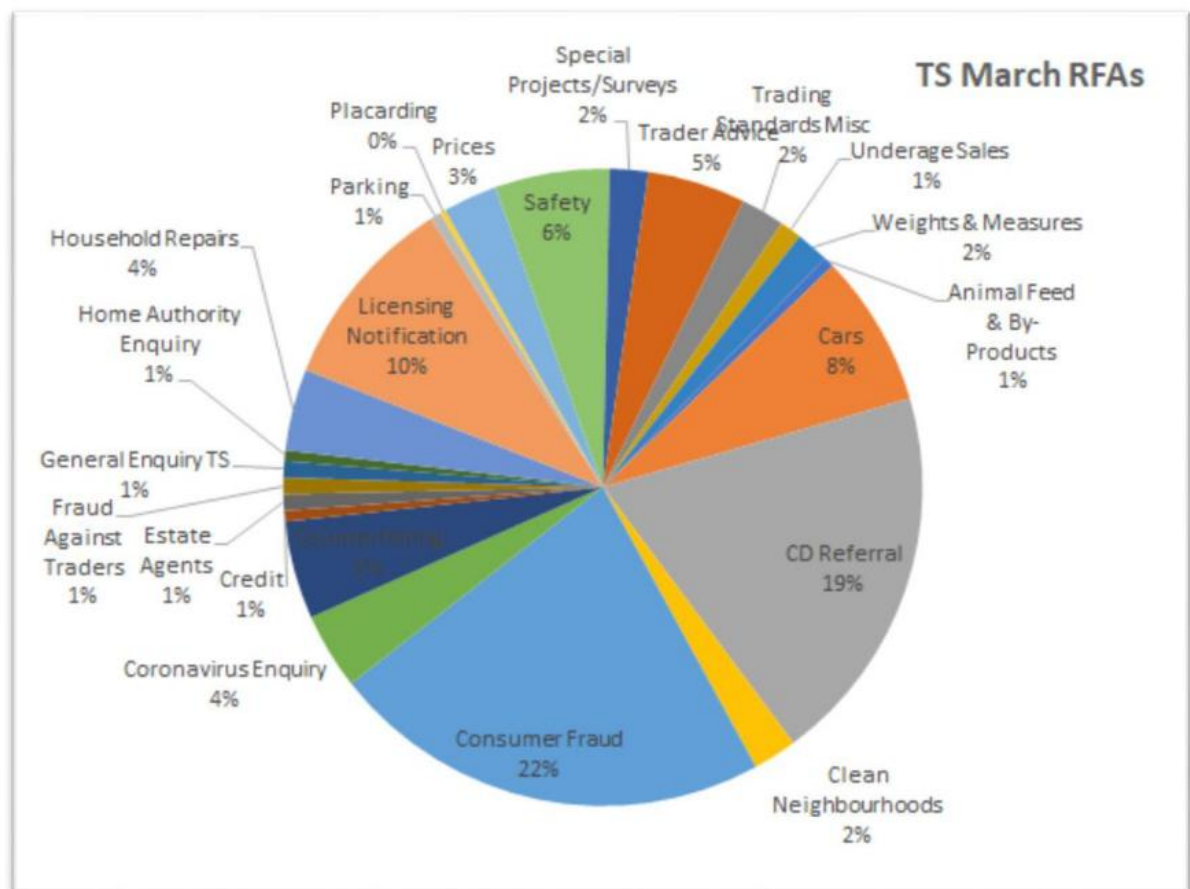
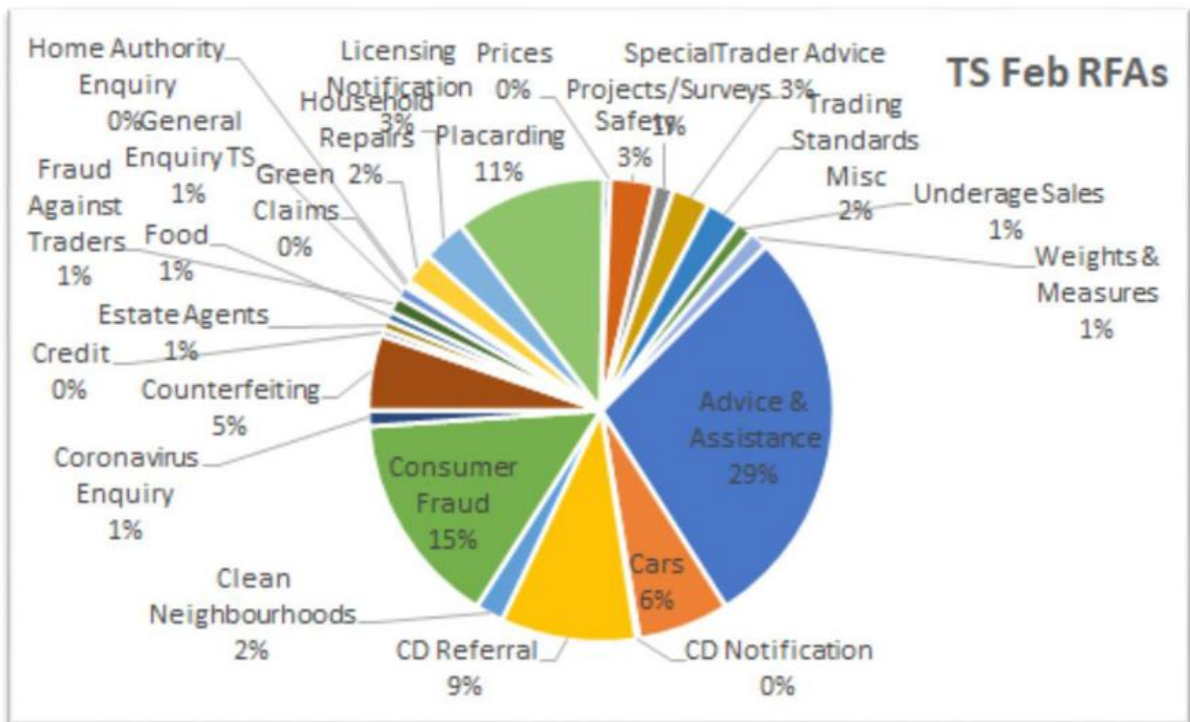
Type of Licence	Number of active licences
Scrap Metal Site Licences	35
Scrap Metal Collector Licences	32

There has been the following enforcement action with regards to Scrap Metal Site licences:

Type of Enforcement	October 2020	November 2020	December 2020	January 2021	February 2021	March 2021
Complaints	1	0	1	0	0	0
Inspections	3	4	3	3	2	3

## Trading Standards – February and March 2021

The pie charts below show an analysis of the requests for assistance for the Trading Standards service per month.





## **Core TS Activities**

### Alcohol seizure

On 24 February 2021 officers seized 69 counterfeit bottles of Yellow Tail Wine and 3 bottles of Krakoff Vodka. This was following an intelligence report from West Midlands Police. Enquiries are ongoing.

### Licence Review

On 8 February 2021 the Licensing Sub-committee revoked the licence for KVK Supermarket Ltd 243-245 Eachelhurst Road, Walmley, Birmingham B76 1DT and Mrs Davanayaki Vickneswaran was removed as Designated Premises Supervisor.

This was as a result of 41 counterfeit bottles of wine being seized from the shop; this was in addition to the 3 counterfeit bottles already sold to a customer who had reported it, and a further 5 sold to another member of the public who made a similar report.

During one visit to seize the stock, the company director produced an invoice from a local cash & carry to account for the purchase of the bottles of wine. Trading Standards informed the Sub-Committee that this invoice was later proven to be 'false' after direct investigation with the wholesaler. Furthermore, the wholesaler had carried out a national audit of their stock of 'Yellow Tail' branded wine and had not found any bottles within their organisation with the same batch codes as the counterfeit stock seized from KVK Supermarket. The explanation given by the company director to Trading Standards was that staff employed by her in the shop had purchased the counterfeit alcohol, without her knowledge, from somebody whom she described as 'a delivery man'.

### Placarding

TS conducted a further placarding exercise over two days on 16 and 17 February 2021. Just over 200 placards were seized from across the city, identifying over 36 different businesses. Most of the areas selected were similar to before, however also included were some additional locations based on intel from staff themselves, and colleagues in Highways etc.

Whilst the high number of placards discovered is disappointing, 87 can be attributed to one, yet unidentified, promoting a free boiler scheme. It is known that some are also displayed outside Birmingham. The business only displays a phone number and an officer has made contact, but they would not provide trading details. Enquiries are ongoing.

### Business Advice

During these testing times, citizens are looking for other sources of income to support themselves and their families. Trading Standards continue to support new and existing businesses by giving business advice. Birmingham Trading Standards service have given guidance in relation to the laws relating to cosmetic products, laser hair home treatments, children's printed personalised clothing and gifts, pet feed, bottle sizing requirements, importing goods and their legal obligations under the new EU Exit strategy.

TS are actively directing businesses to Business Guidance on their twitter account.

### Proceeds of Crime

Financial investigators successfully obtained a Cash Forfeiture Order under the Proceeds of Crime Act for £38,589.51 (£38,250.00 plus interest accrued). The cash was seized during a warrant for counterfeit goods, under Operation Beorma. The cash was found stuffed in the back of a wardrobe in the suspect's bedroom. The suspect decided not to challenge the application to have the cash forfeited, and so the application was successful. The court hearing was on 8 January 2021, but they were allowed a month to appeal before the cash was paid over. The suspect did not appeal, so the cash was paid on 8 February 2021.

### Underage knife sale court result

On 15 March 2021 Mr. Walee Mamadsi pleaded guilty to the sale of a knife to an underage person on 22 February 2020 from Zahir Supermarket 476-478 Bordesley Green Birmingham B9 5NS. He was the owner of the business. He was given a fine of £650.00 and ordered to pay full costs along with a victim surcharge; a total of £2,290.00 to be paid within 28 days.

The seller had received a Caution on 18 August 2020.

### Sale of counterfeit cigarettes to underage volunteer

As a result of a seizure of a quantity of counterfeit cigarettes and tobacco Trading Standards included Bordesley Green Mini Market in an underage test purchase exercise of cigarettes.

A test purchase was made by one of our volunteers who was under 18 on 20 February 2020; a packet of 20 Benson & Hedges cigarettes by Miraj Ahmadzai who was working at the shop and was witnessed by an officer from Trading Standards. As well as the illegal sale of cigarettes to a person under the age of 18 the packet sold was confirmed to be counterfeit.

As a result of previous seizure and the sale offences were laid against the seller Miraj Ahmadzai (who had also been present at the earlier seizure) and the owner of the business Mirzaman Ahmadzai.

The case for the underage sale was heard in the Magistrates Court on 5 March 2021 where Miraj Ahmadzai pleaded guilty. The magistrates sentenced as follows: fine £225 reduced to £168 for credit (25%). Costs contribution of £185 ordered and victim surcharge £32. Total £385.

The Counterfeit element of the case was heard in Crown Court on 23 March 2021. Mr Miraj Ahmadzai pleaded guilty and was sentenced to an 18-month community order with a 15-day rehabilitation requirement. He was ordered to pay £2,400.00 in costs at £200.00 per month. He was also ordered to pay a victim surcharge. An arrest warrant has been issued for Mirzaman Ahmadzai who failed to attend court.

#### Fraudulent Covid Business support grants

A Birmingham based business owner, who incorrectly claimed two Covid 19 business support grants for neighbouring businesses, has admitted two offences of fraud and has repaid the money in full. He has accepted caution, which will be recorded on a national database and taken into consideration should he come to light for offences in the future.

#### Fixed Penalty Fine

The service had a referral from Private Rented Services about a property that did not have an Energy Performance Certificate. The Officer had been in contact with the landlord's solicitor since August 2020, but they failed to provide one. On 30 March 2021 a £200 Fixed Penalty Notice was issued which was subsequently paid.

### **Consumer Redress**

#### Compensation Awarded

On 18 March 2021 a consumer received £15,980 from her bank as a direct result of our intervention with the Banking Ombudsman. This is the sum of the payment she paid a builder that TS are prosecuting. She wrote to say a big thank to TS and the team for the support she had been given during this difficult time.

#### Civil compensation for car purchase

A consumer purchased a car for £12,000 from a dealer in Birmingham. A few months later she noticed certain faults, she took it to her local garage. The other garage stated that the car was dangerous and should never have passed the MOT. The consumer had a valid MOT when she bought the vehicle. The trader refused to take the car back, repair the faults or give her money towards getting them put right. After 5 months the trader exchanged the car and gave the consumer £400 back following Trading Standards intervention.

### **Enforcement Exercises**

#### Counterfeit wine

TS seized a total of 510 bottles of counterfeit wine of the same brand from 4 different premises. A further 11 bottles of another brand have also been seized. In all cases a review of the Premises Licence will be submitted and consideration of legal proceedings.

#### Tobacco Enforcement 12 March 2021

On 12 March 2021 TS Officers visited 6 business premises in Birmingham that had previous history and intel that they were dealing in illegal tobacco. With support from West Midlands Police and Wagtail tobacco detection dogs 5 premises were found to have illicit and counterfeit tobacco and alcohol. The businesses are being investigated for offences.

### Project Guardian Knives

On 17 March 2021 officers worked with police officers from the Project Guardian Task Force to test whether shops were requesting identification and age verification. They used a young looking 19-year-old to test the Challenge 25 system. 8 premises were visited 2 premises were closed, 4 sold without challenge; the purchases included multipacks of kitchen knives. As the purchaser was over 18 no offences took place however it was a lesson learnt by the businesses to ensure they adhere to the Challenge 25 initiative.

The shops were educated on best practices and have signed up for The Responsible Retailer Scheme.

## **Scams**

### Doorstep Scams

On 12 February 2021 TS officer witnessed his elderly, vulnerable neighbour being hassled by some workmen on his front drive. The Officer went out to see what was going on, he discovered that they had started power washing his drive without his permission. When challenged, the persons said that he had asked them for a free demonstration, however this was entirely false. It is believed that they were going to complete the work and then demand money from him. The Officer advised the workmen that he was going to call the police and they jumped in their van and sped off. The van was displaying Irish number plates and is suspected to be linked to other similar offences across the country. The intervention stopped the neighbour falling victim to the scam.

TS are currently investigating a roofing company that appear to be targeting older residents and charging large amounts for work that may not have needed doing in the first place. One householder was approached and told her she needed her ridge tiles repairing and he could do it for £70. Once he finished the job, he asked for £1300. She tried to do a bank transfer that did not go through. Her daughter contacted TS. With TS intervention they stopped the Consumer paying the £1000.

A second house was targeted on the same street the same trader approached the householder, an elderly man living on his own. They started work on his roof and told him he needed a few tiles replacing, and it will cost him £2600, which he paid cash. A few days later they told him it is going to cost him an extra £7400. With TS intervention they stopped the Consumer paying the £7400.

Enquiries are ongoing.

### Scams Project - NTS Scams referrals

During the pandemic TS were unable to make personal visits to those who had responded to bogus prize draws. However, TS are still doing full background checks to see if any further support is required by Adult Social Care. TS continue to provide scam awareness advice to those who have entered bogus prize draws.

TS are receiving around 5 monthly scam victim referrals. TS are updating the National Trading Standards Scams Team on the outcome of the referrals.

## **Social Media**

### **Twitter**

For February, TS have 2,993 followers and gained 15 new followers. TS posted 123 tweets and there were 102k impressions, 2,335 profile visits and 41 mentions.

For March, TS have 2,993 followers. TS posted 144 tweets and there were 112K impressions, 1,952 profile visits and 54 mentions.

### **Website**

In February 2021 there were 1,091 views to TS website.

In March 2021 there were 4,207 views to TS website an increase of 3,116 views from the previous month.

### **Financial Investigation**

The service's two Financial Investigators (FIs) continue to focus their attentions on Covid Business Grant frauds. With the support of colleagues in the National Illegal Money Lending Team, warrants were recently executed at a number of premises in Birmingham. Two males were arrested on suspicion of being involved in a significant fraud against Birmingham City Council, other Local Authorities and Government agencies. It is believed that the two are part of a wider Organised Crime Group who have been targeting public funds in the wake of the pandemic. The total value of the fraud is estimated to be in the region of £6m. Both males have been charged and bailed to attend court at a later date and enquiries continue to hopefully identify further individuals involved.

The number of grant fraud cases being referred to the FIs has slowed down, but there is still a significant list to work through, with the officers having to prioritise the most prolific offenders. It is likely that this work will continue for some time.

### **England Illegal Money Lending Team (IMLT)**

During February and March, the IMLT received 81 reports of illegal money lending (IML), with an increase of reports to the previous months and an increase compared to the same period last year. 30 of these reports can be directly linked to the work carried out by LIAISE officers, and 69 new illegal lenders were identified.

Enforcement activity during these months saw a husband-and-wife team cautioned for illegal money lending in the Ashton-upon-Lyne area of Manchester. As restitution, the couple also returned a total of £50,000 in interest payments to 24 people who had taken loans from them.

The Illegal Money Lending Team has launched a Partner Recognition Scheme to reward partners who support work to stop people using loan sharks. Applications are coming in thick and fast, and so far, the following agencies have been awarded Partner status:

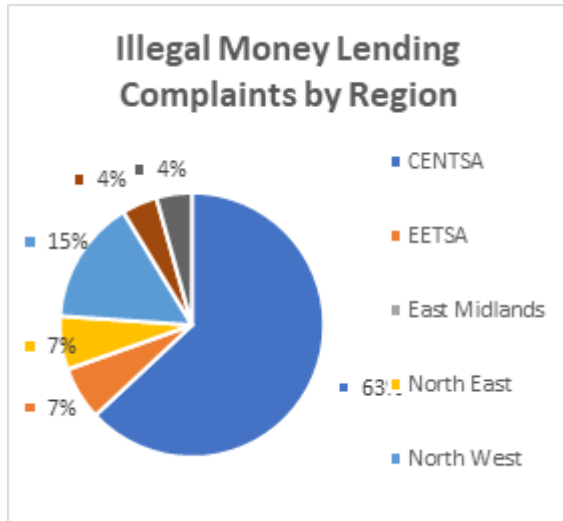
- Runcorn Police
- Prima Group
- Rhubarb Farm
- Just credit union
- Cheshire East Trading Standards
- East Sussex Credit Union
- Together Housing Group
- Staffordshire Citizen's Advice

These agencies are now considering whether to apply for Partner Plus status. This involves achieving higher criteria of engagement and involvement with IMLT.

Over 2500 people were trained online during February and March. The team have extended their training packages and are now offering:

- What is a Loan Shark? – looking at the crime of illegal lending and how to identify a victim
- Overcoming Victim Barriers and Changing Lives – going into more detail about the reasons people don't engage with IMLT and overcoming them
- What is a Credit Union, and how do they help in the fight against loan sharks? – looking at partnership arrangements with CUs and how they can help steer people away from loan sharks
- Reflective training – become a Stop Loan Shark SPOC – a 3 session training event with "homework" allowing a small group to engage with the issues facing victims of illegal lenders

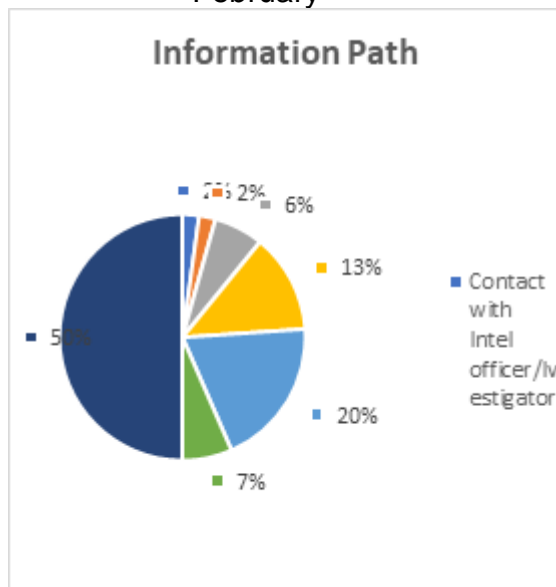
IMLT worked with partners to warn people about online loan sharks in the run-up to Valentine's Day. Reports have been received that illegal lenders are utilising online dating sites to befriend people and then offer them loans.



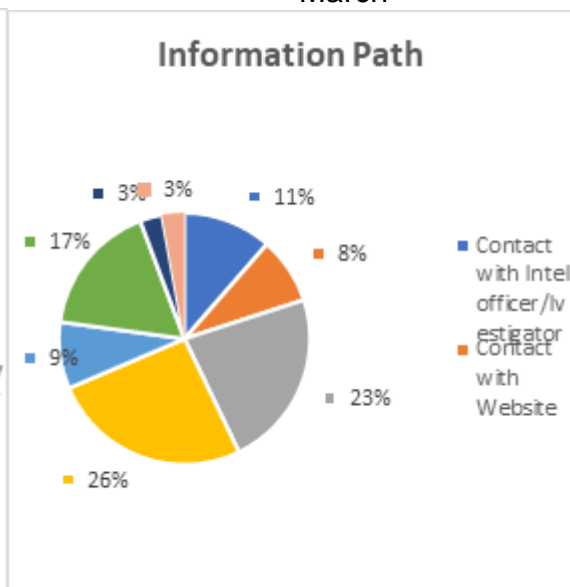
February



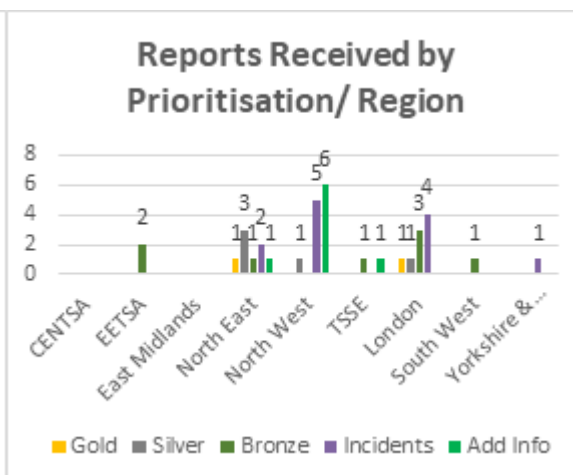
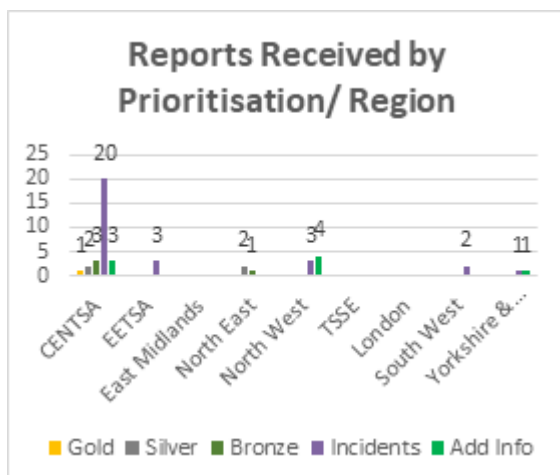
March



February



March



## **Registration Service**

### **Death Registrations**

The service is processing death registrations in line with the Coronavirus Act and the direction of the General Register Office (GRO). In late March 2020 a new process for registering was enacted and the service implemented this and honed the processes to improve performance. The table below shows the level of death registration for April 2020 to March 2021 compared to the same period in 2019-20.

<b>Deaths</b>	<b>2019/20</b>	<b>2020/21</b>	<b>% change</b>
<b>April 2020</b>	819	2260	+176
<b>May</b>	863	983	+13.9
<b>June</b>	762	767	+0.65
<b>July</b>	802	800	-0.25
<b>August</b>	793	714	-9.95
<b>September</b>	802	804	+0.25
<b>October</b>	878	904	+2.96
<b>November</b>	844	1132	+34.11
<b>December</b>	896	1134	+32.15
<b>January 2021</b>	1159	1564	+34.95
<b>February 2021</b>	811	1391	+71.50
<b>March 2021</b>	943	967	+2.55
<b>Year to date</b>	<b>10372</b>	<b>13420</b>	<b>+29.39</b>

### **Birth Registrations**

The Government reintroduced the registration of births in June, with an optional alternative procedure, both procedures require face to face meetings. For operational reasons the service followed the standard process and was fully operational from mid-June. As at 29 March there were 2201 outstanding birth registrations, of which 573 were over the statutory 42 days registration period- this is a continued reduction on previous months. The table below shows the level of birth registrations for June 2020 through to March 2021 compared to the same period in 2019-20.

<b>Birth Registrations</b>	<b>2019/20</b>	<b>2020/21</b>	<b>% change</b>
<b>June</b>	1,819	543	-70.15
<b>July</b>	1,880	2,820	+50
<b>August</b>	1,647	2,045	+24.2
<b>September</b>	1,956	2,376	+21.5
<b>October</b>	2,284	2,464	+7.89
<b>November</b>	2,004	2,542	+26.85
<b>December</b>	1,546	1,950	+26.15
<b>January 2021</b>	2069	1864	-9.91
<b>February 2021</b>	1956	1661	-15.09
<b>March 2021</b>	1144	2161	+88.90
<b>Running Total</b>	<b>18305</b>	<b>20426</b>	<b>+11.59</b>



## **Ceremonies**

Following the first national lockdown, the Government announced the taking of notices of marriage and civil partnership, and ceremonies could recommence in Covid 19 secure venues from July 2020. In line with national guidance the Register Office implemented measures to recommence ceremonies from 4 July. During the second national lockdown, marriage and civil partnership ceremonies were suspended from 5 November to 2 December. Marriages and Civil Ceremonies were again suspended in January 2021 unless there were exceptional circumstances. Citizenship ceremonies were delivered remotely. The tables below show the level of ceremonies and notices from July 2020 to March 2021 compared to the same period in 2019-20.

<b>Ceremonies</b>	<b>2019/20</b>	<b>2020/21</b>	<b>% change</b>
July	188	45	-76.1
August	224	63	-72.75
September	150	121	-19.35
October	164	123	-20
November	140	12	-91.40
December	125	94	-24.8
January 2021	97	5	-96
February 2021	100	2	-98
March 2021	72	14	+80.56
<b>Running Total</b>	<b>1260</b>	<b>470</b>	<b>-37.42</b>

<b>Notice of Marriage and Civil Partnership</b>	<b>2019/20</b>	<b>2020/21</b>	<b>% change</b>
July	610	430	-29.95
August	522	365	-30.1
September	621	373	-39.95
October	566	478	-15.5
November	620	518	-16.45
December	473	461	-2.55
January 2021	621	405	-34.8
February 2021	548	424	-22.63
March 2021	443	584	+31.85
<b>Running Total</b>	<b>5024</b>	<b>4038</b>	<b>-19.63</b>

<b>Citizenship Ceremonies</b>	<b>2019/20</b>	<b>2020/21</b>	<b>% change</b>
July	268	156	-41.75
August	199	246	+33.2
September	281	170	-39.45
October	273	214	-21.65
November	220	203	-7.75
December	207	338	+63.30
January 2021	327	168	-48.7
February 2021	244	217	-11.07
March 2021	221	274	+23.99
<b>Running Total</b>	<b>2240</b>	<b>1986</b>	<b>-11.34</b>

### **City Centre Operations - Temporary Pavement Licences**

The table below shows the activity that has taken place from when the temporary pavement licences were introduced to the end of March 2021.

Note – **New** equates to number of applications received where the applicant did **not** previously hold a Street Café Licence (Highway Act).

**Current** equates to number of applications received where the applicant previously held a Street Café Licences (Highway Act).

<b>Month</b>	<b>Received</b>	<b>Approved</b>	<b>Refused/Rejected/Withdrawn</b>	<b>New</b>	<b>Current</b>	<b>City Centre</b>	<b>Local Centres</b>
July	3	2	1	2	1	3	0
August	33	28	5	21	12	29	4
September	8	7	1	4	4	6	2
October	7	6	1	6	1	4	3
November	0	0	0	0	0	0	0
December	1	1	0	0	1	1	0
January	1	1	0	0	1	0	1
February	1	1	0	0	1	0	1
March	18	11	7	8	10	14	4
<b>TOTAL TO DATE</b>	<b>72</b>	<b>57</b>	<b>15</b>	<b>41</b>	<b>31</b>	<b>57</b>	<b>15</b>

**23 June 2021**

**Paul Lankester**  
**Interim Assistant Director Regulation and Enforcement**

**BIRMINGHAM CITY COUNCIL**

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

**23 JUNE 2021**  
**ALL WARDS**

**PROSECUTIONS AND CAUTIONS –**  
**JANUARY, FEBRUARY, MARCH AND APRIL 2021**

1. Summary
  - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the months of January, February, March and April 2021.
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Paul Lankester  
Interim Assistant Director, Regulation and Enforcement  
City Operations Directorate  
Telephone: 0121 675 2495  
E-Mail: **Paul.Lankester@birmingham.gov.uk**

### 3. Results

3.1 During the months of January, February, March and April 2021, the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- 215 Environmental Health cases were finalised resulting in fines of £7,751,147 together with a suspended prison sentence, a community order, a conditional discharge and a deprivation order. Prosecution costs of £152,225 were awarded. Two simple cautions were administered as set out in Appendix 1.
- One Licensing case was finalised resulting in a fine of £207. Prosecution costs of £1,000 were awarded together with £100 compensation to the complainant. No simple cautions were administered as set out in Appendix 2.
- Four Trading Standards cases were finalised resulting in fines of £938 together with a community order. Prosecution costs of £4,293 were awarded. No simple cautions were administered as set out in Appendix 3.
- 18 Waste Enforcement cases were finalised resulting in fines of £7,955, a three month prison sentence, a community order and a conditional discharge. Prosecution costs of £15,083 were awarded. No simple cautions were administered as set out in Appendix 4.
- Appendix 5 lists cases finalised by district in January to April 2021 and April 2020 to April 2021.
- Appendix 6 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2020 to April 2021.
- Appendix 7 lists Penalty Charge Notices issued by Parking Enforcement specifically for individuals parking on Taxi Ranks across the City April 2020 to April 2021. Please note this does not include other parking tickets issued anywhere else in the City.

### 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 2020 to April 2021 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£282,130 has been requested with £243,969 being awarded (86%)

Licensing

£18,570 has been requested with £6,691 being awarded (36%)

Trading Standards

£12,855 has been requested with £6,943 being awarded (54%)

- 5.3 For the months of January, February, March and April 2021 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£192,449 has been requested with £167,308 being awarded (87%)

Licensing

£2,649 has been requested with £1,000 being awarded (38%)

Trading Standards

£6,587 has been requested with £4,293 being awarded (65%)

- 5.4 The following income has been received from the courts in 2020/21.

Licensing

£4,647 has been received.

Environmental Health

£74,366 has been received including Waste Enforcement cases.

Trading Standards

£3,045 has been received.

(Total £82,058)

- 5.5 This will not directly correlate to the values awarded in the same time period as individual cases are often cleared in instalments with the associated fines and court costs taking precedence over the settling of BCC legal costs. Therefore, income received may relate to cases from the previous financial year or earlier.

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.

**INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

**ENVIRONMENTAL HEALTH CASES****ANIMAL WELFARE OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	1/3/21	Levstean Dumitru Birmingham	<p>Animal Welfare Act 2006</p> <p>Pleaded guilty to one offence of being a person responsible for a Shih-Tzu type dog and failing to take all such steps as were reasonable in all the circumstances to ensure that the needs of the animal were met, in particular the need to be protected from pain, suffering, injury and disease, in that it had multiple large matted areas of fur resulting in a secondary skin infection which caused it pain and discomfort and obscured its vision</p> <p>Originally listed for trial</p>	<p>18 month community order 100 hours unpaid work</p> <p>Deprivation Order – disqualified from keeping any animal for 10 years</p> <p>£1,800 costs (£2,002 requested)</p>	Ward End	Ward End

## **FOOD HYGIENE OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
2	21/1/21	Broadway 2 Ltd 201 Birchfield Road Perry Barr Birmingham B19 1LL	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to two offences relating to the conditions found at Broadway 2, 201 Birchfield Road, Birmingham, live cockroaches were found throughout the premises and there were several cracks and crevices along walls and floors which had not been adequately sealed. There was an accumulation of live and dead cockroaches, grease, dirt and food debris throughout the premises on floors, walls and surfaces close to where food was being prepared.	£4,500  £1,239 costs awarded (£1,239 requested)	Aston	Aston
3	21/1/21	Naser Ali Birmingham	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to five offences: one of failing to comply with an Improvement Notice requiring that all floors, walls, touch points, equipment and utensils coming into contact with food at Amer Restaurant, 526 Stratford Road, Birmingham were thoroughly cleaned and four offences relating to the conditions found at the restaurant, the walls behind the sink in the kitchen and the wash basin in the sanitary accommodation were not clean, the kitchen ceiling was flaking and had bare plaster exposed, floors were not kept clean, shelving in the kitchen was not kept clean, fridges and freezers in the kitchen and rear storeroom were not clean and the microwave was dirty. Flour bins, food containers and chopping boards were not clean. Prepared food was stored uncovered in dirty fridges, Naan bread was cooked in a dirty and damaged tandoor oven and prepared food was stored in open tins under the sink drainer. No procedure based on HACCP principles had been implemented or maintained at the business.	£800 (£200 x Notice offence £150 x 4 remaining offences)  £937 costs awarded (£937 requested)	Moseley	Sparkhill



4	21/1/21	Russell's Enterprise Ltd 56a-56c Lozells Road Birmingham B19 2TJ	Food Safety and Hygiene (England) Regulations 2013  Found guilty in absence of three offences relating to the conditions found at Russell's, 56a-56c Lozells Road, Birmingham, there was evidence of mouse activity throughout the premises, including a large amount of mouse droppings found inside a food container, on baking trays and inside equipment, gnawed food packaging was found in the production and upstairs kitchens, dirty baking trays were found in the production kitchen and dirt and debris was found behind fresh fruit and vegetables in the supermarket area. There were large gaps to the external door next to butchery area, a hole to the wall in the walkway behind the butchery area and a missing ceiling tile to the suspended ceiling in the walkway behind the butchery area.	£14,000  £1,460 costs awarded (£1,460 requested)	Lozells	Lozells
5	18/2/21	LC First Ltd 56 High Street Birmingham B4 7SY	Food Safety and Hygiene (England) Regulations 2013  Found guilty in absence of three offences relating to the conditions found at Love Chicken, 56 High Street, Birmingham. There was dirt at floor/wall junctions in the dining area, kitchen, pot wash area and corridor. Mouse droppings were found on flooring throughout the ground floor including the kitchen and dining area, on a shelf under the grill and on a storage shelf. There was a hole next to the base of the stairs allowing ingress of mice.	£5,000 - 1 <sup>st</sup> offence  No separate penalty for remaining 2 offences  £2,027 costs awarded (£2,027 requested)	Ladywood	Ladywood

6	18/2/21	Livia Bleonca Worcester	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to four offences relating to the conditions found at Ocean Blue Fish Bar, 5 Orphanage Road, Erdington, Birmingham. Rat droppings were found on the floor and adjoining walls throughout the front servery and rear preparation room, on the kebab rotisserie and on storage shelves. No measures were in place to control rat activity and the food handler was unable to demonstrate that she had received any food hygiene training.</p>	<p>£400 - 1<sup>st</sup> offence</p> <p>No separate penalty for remaining 3 offences</p> <p>£300 costs awarded (£2,012 requested)</p>	Out of area	Erdington
7	4/3/21	Arcadian Bakery Suite 3, 4th floor Queensgate 121 Suffolk Queensway Birmingham B1 1LX	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Food Safety Act 1990</p> <p>Pleaded guilty to six offences: one of failing to comply with an improvement notice requiring up to date and accurate information to be provided in relation to the 14 prescribed allergens for all foods and drinks served at Hey Sugar/Wah Kee Bakery, B103 Arcadian Centre, 70 Hurst Street, Birmingham, one of placing food on the market which was unsafe, in that a two litre bottle of milk was found passed its use by date, two offences relating to the conditions found at the premises, there beings no documented procedure based on the HACCP principles and washbasins were not provided with cleaning materials, and two further offences of failing to comply with improvement notices requiring all food labels to contain mandatory information as required and a permanent procedure based on HACCP principles to be put in place.</p>	<p>£3,000 fine</p> <p>£1,613 costs (£1,613 requested)</p>	Ladywood	Bordesley & Highgate

8	4/3/21	Raja Jabbar Birmingham	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to six offences relating to the conditions found at UK Fried Chicken, 366 Ladypool Road, Birmingham, there was evidence of mice activity throughout the food storeroom, kitchen and servery at the premises, food equipment and containers were dirty, shelving and the chicken preparation area was dirty, the chest freezer had a missing lid and monitoring checks of critical controls had not been completed for over a month</p>	<p>£1,800 fine (£600 x 3)</p> <p>No separate penalty on remaining 3 offences</p> <p>£1,000 costs (£1,646 requested)</p>	Sparkbrook & Balsall Heath East	Sparkbrook & Balsall Heath East
9	10/3/21	Jamal Karim Smethwick	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to 31 offences: 28 relating to conditions at Kurdistan Supermarket, 402-404 Dudley Road, Birmingham on four separate visits. The premises was not kept clean, equipment was dirty and food was not protected from contamination. There was a large hole in the wall which could allow access to pests. Paintbrushes for decorating were used to glaze naans. There were no procedures based on HACCP. Improvement notices were not complied with. There was no soap or a means of hygienically drying hands at the hand wash basin in the bakery. Staff were wearing their own clothes which were not clean nor changed or covered when entering the bakery area. Three offences of failing to comply with hygiene improvement notices requiring a documented food safety management system to be implemented, food handlers to be trained and the provision of information relating to the 14 prescribed allergens.</p>	<p>£10,500 fine</p> <p>£2,000 costs (£2,935 requested)</p>	Out of area	North Edgbaston

10	29/3/21	Sunny Biscuits Ltd Unit 3a Atlas Trading Estate Colebrook Road Birmingham B11 2NT	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to 24 offences: 21 relating to conditions found at Sunny Biscuits, Unit 3-4, Building A, Atlas Trading Estate, Colebrook Road, Birmingham on two separate visits. The premises was not clean or kept in good condition and repair. Maintenance work was being carried out on the production line, with food and packaging exposed to a risk of contamination. Pieces of metal were positioned on the conveyor belt being used for ready to eat biscuits. There was no adequate separation between the food manufacturing activities and the storage of motor cars and miscellaneous items not related to the food business including tools, car maintenance items and car maintenance activities within the factory. Raw ingredients were stored next to the toilet block. There were no procedures based on HACCP. The roof was leaking and water was pooled on the factory floor. Three offences of failing to comply with hygiene improvement notices requiring all equipment belts to be in a good condition to minimise a risk of contamination; the premises to be cleaned and cars to be removed and all exposed mechanisms of machinery to be covered	£13,000 fine  £2,384 costs (£2,384 requested)	Sparkbrook & Balsall Heath East	Sparkbrook & Balsall Heath East
11	1/4/21	Tasty Pastry Trade Ltd Units 38-40 Great Western Business Park Great Western Close Winson Green Birmingham B18 4QF	Food Safety and Hygiene (England) Regulations 2013.  Pleaded guilty to one offence of failing to comply with an Improvement Notice requiring a permanent procedure based on HACCP procedures to be implemented and maintained at Tasty Pastry Trade Ltd, Units 38-40 Western Business Park, Great Western Close, Winson Green, Birmingham in relation to the identification, management and control of the 14 allergens for the production of products and to address the storage and packing of products into insulated boxes for chilled distribution.	£6,700 fine  £944 costs (£944 requested)	Soho & Jewellery Quarter	Soho & Jewellery Quarter

12	1/4/21	Medina Bakery Ltd 48 Golden Hillock Road Small Heath Birmingham B10 0LG	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to 16 offences; 14 relating to conditions at Medina Bakery, 48 Golden Hillock Road, Small Heath, Birmingham on five separate dates. Walls, floors, surfaces, toilets and touch points were dirty. The external shutter and ventilation grill were not adequately pest proofed. The heat sealer handle and lid were repaired with tape and a knife had been repaired with tape. Overalls worn by food handlers were dirty and two offences of failing to comply with hygiene improvement notices requiring a permanent procedure based on the HACCP principles to be implemented and maintained and all food labels to contain the mandatory information as required. "Egg free" products were on display for sale which were found to contain egg.	£14,000 fine  £4,796 costs (£4,796 requested)	Bordesley Green	Bordesley Green
13	14/4/21	ZSI BHM Ltd 610-612 Bristol Road Selly Oak Birmingham B29 6BQ	Food Safety and Hygiene (England) Regulations 2013.  Found guilty in absence of two offences relating to conditions at Mama Mia Pizza, 610-612 Bristol Road, Birmingham. There were cockroaches, both dead and alive, throughout the premises including on food preparation surfaces, walls, floors, behind equipment and on taps around the kitchen. Pest treatment had not been undertaken. The following areas were dirty: floors, walls, behind fridges, the preparation table beneath the dough roller, the fridge motor, fridge shelving, sink shelving, sink pipework. There was a bag of cement in the kitchen  Originally listed for trial	£8,000 fine  £1,772 costs (£1,772 requested)	Bournbrook & Selly Park	Bournbrook & Selly Park

14	15/4/21	Daniel Tesfaye Birmingham	<p>Food Safety and Hygiene (England) Regulations 2013.</p> <p>Pleaded guilty to eight offences relating to conditions at Wal Ya, 149 Stratford Road, Birmingham. Cockroaches were found throughout the kitchen. The floor, shelving beneath the sink, the fridge, the freezer and walls were found to be dirty and paint was flaking on the kitchen wall. The handle was missing from a chest freezer and the lid seal was coming off. In the server, the floor and the counter beneath the coffee machine were dirty. There were gaps in the kitchen beneath the staircase which could permit the ingress of cockroaches. Food was stored in a damaged plastic container and a chopping board was heavily scored. There were no washbasins for cleaning hands in the kitchen and no soap for cleaning hands at the washbasin in the sanitary accommodation.</p>	<p>£400 on 1st offence No separate penalty on remaining 7 offences</p> <p>£760 costs (£1,622 requested)</p>	Newtown	Sparkbrook & Balsall Heath East
15	19/4/21	Moor Hall Hotel Four Oaks Birmingham B75 6LN	<p>Food Safety and Hygiene (England) Regulations 2013.</p> <p>Pleaded guilty to two offences; one of providing afternoon tea at Moor Hall Hotel, Four Oaks, Sutton Coldfield which was described as nut free when it was found to contain peanut. The customer had informed the hotel that they were allergic to nuts. One offence of failing to ensure articles, fittings and equipment were effectively cleaned. Clear plastic food containers were stored in a dirty condition. The cling film dispenser was in a dirty condition. Cloths which would come into contact with food preparation surfaces and chopping boards were in a dirty condition. The handheld food blender was stored in a dirty condition, food whisks were stored in a dirty condition with dried on food debris.</p>	<p>£20,000 fine</p> <p>£3,439 costs (£3,439 requested)</p>	Sutton Roughley	Sutton Roughley

16	19/4/21	Tesco Stores Ltd Tesco House Shire Park Kestrel Way Welwyn Garden City AL7 1GA	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to 22 offences; 10 relating to food, namely pizza, dough balls, soup, pork belly slices, potato salad, trifle and flavoured milk, being on display for sale at Tesco Express, 165 Linden Road, Birmingham which was passed its "use by" date and 12 offences relating to food, namely Ginster's Original Cornish pasties, Tesco Pink Slaw, Tesco Scotch Eggs, Tesco Quiche Lorraine, Little Dish Chicken and Veg Risotto and Little Dish Pasta Bolognese, being on display for sale at Tesco Metro, 2042-1052 Bristol Road South, Birmingham which was passed its "use by" date and Tesco Falafel & Houmous Wraps, Tesco Berry Medley and Tesco Grapes & Strawberries, being on display for sale at Tesco Express, Carrs Lane, Birmingham which was passed its "use by" date.	£7,560,000  £95,000 costs (£95,000 requested)	Out of area	Bournville & Cotteridge
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## HEALTH & SAFETY OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
17	28/1/21	Mohammed Shafique Birmingham	Health and Safety at Work etc Act 1974  Pleaded <u>not guilty</u> to one offence of failing to ensure that a flue to a gas appliance, namely a gas boiler, in a place of work at Kin's Crunchy Chicken, 2 Newbridge Road, Birmingham was maintained in a safe condition so as to prevent a risk of injury to any person, in that the flue was not complete, inhibiting the safe removal of harmful carbon monoxide gas from the gas boiler.  Found guilty following trial.	20 week custodial sentence suspended for 12 months  + requirement of 12 week curfew  £1,500 costs awarded (£5,330 requested)	Heartlands	Heartlands
18	1/2/21	Pearl Food Distribution Ltd Unit 33 Middlemore Road Middlemore Industrial Estate Birmingham B66 2EP	Health and Safety at Work etc Act 1974  Pleaded guilty to four offences: one of failing to provide and maintain a system of work that was safe and without risks to health and failing to provide adequate training in connection with the handling, storage and transport of goods in the warehouse at Unit 33 Middlemore Industrial Estate, Birmingham, including the use of a fork lift truck, the loading bay gate and working safely at height: one of failing to take suitable and sufficient measures to prevent any person falling from height, one of failing to revise the general policy re the health & safety of employees and one of failing to record significant findings of risks to health & safety of employees.	£60,000 for offences 2 & 4 (to run concurrently)  No separate penalty on remaining offences  £4,222 costs awarded (£4,222 requested)	Holyhead	Holyhead



## LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
12/1/21	29	£5,730	£2,400	£5,075
26/1/21	23	£4,955	£4,025	£4,025
9/2/21	28	£5,942	£2,380	£4,900
23/2/21	28	£5,800	£3,680	£4,900
9/3/21	4	£880	£700	£700
23/3/21	27	£5,534	£2,295	£4,725
13/4/21	43	£9,280	£7,350	£7,525
27/4/21	13	£2,786	£1,525	£2,275

	Date Case Heard	Name	Fine/Penalty & Costs	Ward of defendant
19	12/1/21	Rukhsar Ahmad Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Sparkhill
20	12/1/21	Kiawan Ahmed Blackpool  Proved in absence	£220  £85 costs (£175 requested)	Out of area
21	12/1/21	Luke Andrew Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Handsworth
22	12/1/21	Jean Clark Sunderland  Proved in absence	£220  £85 costs (£175 requested)	Out of area
23	12/1/21	John Conroy Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Holyhead

24	12/1/21	Ronald Daly Sutton Coldfield  Proved in absence	£220  £85 costs (£175 requested)	Sutton Trinity
25	12/1/21	Nik Domi Leicester  Proved in absence	£220  £85 costs (£175 requested)	Out of area
26	12/1/21	Rasul Ebirm Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Balsall Heath West
27	12/1/21	Antonio Esposito Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Soho & Jewellery Quarter
28	12/1/21	Diva Gomes Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Ladywood
29	12/1/21	Gareth Gough Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Sparkhill
30	12/1/21	Demi Humphreys Liverpool  Proved in absence	£220  £85 costs (£175 requested)	Out of area
31	12/1/21	Anita Jurkiewicz Birmingham  Guilty plea	Conditional Discharge x 6 months  £20 costs (£175 requested)	Nechells

32	12/1/21	Aleksandra Kozyra Birmingham  Guilty plea	£40  £85 costs (£175 requested)	Nechells
33	12/1/21	Grzegorz Kwietniewski Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Ladywood
34	12/1/21	Edward Digby Learoyd Buckhurst Hill  Guilty plea	£150  £85 costs (£175 requested)	Out of area
35	12/1/21	Scott Daniel Moreton Coventry  Proved in absence	£220  £85 costs (£175 requested)	Out of area
36	12/1/21	Gheorghe Teador Muntean Slough  Proved in absence	£220  £85 costs (£175 requested)	Out of area
37	12/1/21	John Jay Murray Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Handsworth
38	12/1/21	Liliana Nicolay Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Alum Rock
39	12/1/21	Rachal Perks Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Erdington

40	12/1/21	Shpresa Pula London  Proved in absence	£220  £85 costs (£175 requested)	Out of area
41	12/1/21	Christina Radu Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Soho & Jewellery Quarter
42	12/1/21	Thaya Ragu Hayes  Proved in absence	£220  £85 costs (£175 requested)	Out of area
43	12/1/21	Azizur Rahman Birmingham  Guilty plea	£40  £85 costs (£175 requested)	Balsall Heath West
44	12/1/21	Patricia Rice Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Aston
45	12/1/21	Louisa Sewell Hereford  Proved in absence	£220  £85 costs (£175 requested)	Out of area
46	12/1/21	Zhong Shiguang Cheltenham  Proved in absence	£220  £85 costs (£175 requested)	Out of area
47	12/1/21	Ionut Razvan Stan Smethwick  Proved in absence	£220  £85 costs (£175 requested)	Out of area

48	26/1/21	Marco Bonneti Wolverhampton  Proved in absence	£220  £175 costs (£175 requested)	Out of area
49	26/1/21	Rhia Cambell Oldbury  Proved in absence	£220  £175 costs (£175 requested)	Out of area
50	26/1/21	Lauren Carter Chelmsley Wood Proved in absence	£220  £175 costs (£175 requested)	Out of area
51	26/1/21	Robert Charles Dagenham  Proved in absence	£220  £175 costs (£175 requested)	Out of area
52	26/1/21	Barry Davis Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Weoley & Selly Oak
53	26/1/21	Claire Eves Enniskillen  Guilty plea	£115  £175 costs (£175 requested)	Out of area
54	26/1/21	Jonathan Fortune Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Ladywood
55	26/1/21	Laurentus George Worcester  Proved in absence	£220  £175 costs (£175 requested)	Out of area

56	26/1/21	Craig Anthony Gronow Cardiff  Proved in absence	£220  £175 costs (£175 requested)	Out of area
57	26/1/21	Hayley Halton Penicuik  Proved in absence	£220  £175 costs (£175 requested)	Out of area
58	26/1/21	Mark Kirby Dudley  Proved in absence	£220  £175 costs (£175 requested)	Out of area
59	26/1/21	Joshua Lewis Leeds  Proved in absence	£220  £175 costs (£175 requested)	Out of area
60	26/1/21	Eduard Vasile Margean Bedford  Proved in absence	£220  £175 costs (£175 requested)	Out of area
61	26/1/21	Amy Morgan Birmingham  Proved in absence	£220  £175 costs (£175 requested)	North Edgbaston
62	26/1/21	Dan Marius Motoc Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Bordesley & Highgate
63	26/1/21	Alexandru Popescu Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Stockland Green

64	26/1/21	Melanie Quinlan Wirral  Proved in absence	£220  £175 costs (£175 requested)	Out of area
65	26/1/21	Salima Reza Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Tyseley & Hay Mills
66	26/1/21	Jamie Alfie Salter Sutton Coldfield  Proved in absence	£220  £175 costs (£175 requested)	Sutton Walmley & Minworth
67	26/1/21	Mahmud Hassan Shamim Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Ward End
68	26/1/21	Ashleigh Showell Oldbury  Proved in absence	£220  £175 costs (£175 requested)	Out of area
69	26/1/21	Oliver Stunner Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Edgbaston
70	26/1/21	Scott Sutton Stourbridge  Proved in absence	£220  £175 costs (£175 requested)	Out of area
71	9/2/21	Mohammed Ali London  Proved in absence	£220  £85 costs (£175 requested)	Out of area

72	9/2/21	Syed Bokhari Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Moseley
73	9/2/21	Adrian Conway Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Gravelly Hill
74	9/2/21	Leanne Cullivan Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Longbridge & West Heath
75	9/2/21	Revor Fox Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Aston
76	9/2/21	Daniel Griffiths Nuneaton  Proved in absence	£220  £85 costs (£175 requested)	Out of area
77	9/2/21	Joseph Harrison Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Sheldon
78	9/2/21	Thomas Timothy Hollwell Rugeley  Guilty plea	£166  £85 costs (£175 requested)	Out of area
79	9/2/21	Pariss Keatley Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Handsworth Wood



80	9/2/21	Stephen Lossnotzer Wantage  Proved in absence	£220  £85 costs (£175 requested)	Out of area
81	9/2/21	Patrick Lydon Coventry  Proved in absence	£220  £85 costs (£175 requested)	Out of area
82	9/2/21	Andrea Marcu Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Sparkbrook & Balsall Heath East
83	9/2/21	Paige McNally Coleshill  Guilty plea	£56  £85 costs (£175 requested)	Out of area
84	9/2/21	Rose Middleton Ilkeston  Proved in absence	£220  £85 costs (£175 requested)	Out of area
85	9/2/21	Marie Morris Selby  Proved in absence	£220  £85 costs (£175 requested)	Out of area
86	9/2/21	Declan Murphy Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Ward End
87	9/2/21	Phuc Nguyen Enfield  Proved in absence	£220  £85 costs (£175 requested)	Out of area

88	9/2/21	Veit Thi Nguyen Enfield  Proved in absence	£220  £85 costs (£175 requested)	Out of area
89	9/2/21	Aysha Noor Coventry  Proved in absence	£220  £85 costs (£175 requested)	Out of area
90	9/2/21	Michael Owen Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Sparkbrook & Balsall Heath East
91	9/2/21	Kyle Powell Bromsgrove  Proved in absence	£220  £85 costs (£175 requested)	Out of area
92	9/2/21	Stefan Tacar Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Soho & Jewellery Quarter
93	9/2/21	Vasile Tomasc Smethwick  Proved in absence	£220  £85 costs (£175 requested)	Out of area
94	9/2/21	Radostin Tsenkov Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Ladywood
95	9/2/21	Dilojan Vanniyasin London  Proved in absence	£220  £85 costs (£175 requested)	Out of area

96	9/2/21	Huang Wu Xiu Rugeley  Proved in absence	£220  £85 costs (£175 requested)	Out of area
97	9/2/21	Liu Xi Littlehampton  Proved in absence	£220  £85 costs (£175 requested)	Out of area
98	9/2/21	Aram Zada Manchester  Proved in absence	£220  £85 costs (£175 requested)	Out of area
99	23/2/21	Edward Bayton Sutton Coldfield  Proved in absence	£220  £135 costs (£175 requested)	Sutton Roughey
100	23/2/21	Sian Breecher Stoke-on-Trent  Proved in absence	£220  £135 costs (£175 requested)	Out of area
101	23/2/21	Ben Carr Solihull  Proved in absence	£220  £135 costs (£175 requested)	Out of area
102	23/2/21	Scott Cash Smethwick  Proved in absence	£220  £135 costs (£175 requested)	Out of area
103	23/2/21	Ruquan Chen Brentford  Proved in absence	£220  £135 costs (£175 requested)	Out of area

104	23/2/21	Francis Corcan Birmingham  Proved in absence	£220  £135 costs (£175 requested)	Alum Rock
105	23/2/21	Bethany Davies Stoke-on-Trent  Proved in absence	£220  £135 costs (£175 requested)	Out of area
106	23/2/21	Payton Dunkley Rugby  Guilty plea	£r00  £85 costs (£175 requested)	Out of area
107	23/2/21	Jack David Garrett Birmingham  Proved in absence	£220  £135 costs (£175 requested)	Balsall Heath
108	23/2/21	Anthony Hand Birmingham  Proved in absence	£220  £135 costs (£175 requested)	Soho & Jewellery Quarter
109	23/2/21	Charlotte Hunt Chelmsley Wood  Proved in absence	£220  £135 costs (£175 requested)	Out of area
110	23/2/21	Thomas Jed London  Proved in absence	£220  £135 costs (£175 requested)	Out of area
111	23/2/21	Christopher Killy London  Proved in absence	£220  £135 costs (£175 requested)	Out of area

112	23/2/21	Jamie Dean Lawrence Birmingham  Proved in absence	£220  £135 costs (£175 requested)	Glebe Farm & Tile Cross
113	23/2/21	Michaela Marsh Northampton  Proved in absence	£220  £135 costs (£175 requested)	Out of area
114	23/2/21	Demo Matai Swindon  Proved in absence	£220  £135 costs (£175 requested)	Out of area
115	23/2/21	David Melhuish Cheltenham  Proved in absence	£220  £135 costs (£175 requested)	Out of area
116	23/2/21	Carl Mervyn London  Guilty plea	£40  £85 costs (£175 requested)	Out of area
117	23/2/21	Raul Mestor Redditch  Proved in absence	£220  £135 costs (£175 requested)	Out of area
118	23/2/21	Albert Metkaj Birmingham  Proved in absence	£220  £135 costs (£175 requested)	Sparkhill
119	23/2/21	Mohammed Miah Birmingham  Proved in absence	£220  £135 costs (£175 requested)	Sparkhill

120	23/2/21	Michaela Mindru Smethwick  Proved in absence	£220  £135 costs (£175 requested)	Out of area
121	23/2/21	Roxana Plesca Birmingham  Proved in absence	£220  £135 costs (£175 requested)	Sparkbrook & Balsall Heath East
122	23/2/21	Jess Silver Solihull  Proved in absence	£220  £135 costs (£175 requested)	Out of area
123	23/2/21	Aaron Spratt London  Proved in absence	£220  £135 costs (£175 requested)	Out of area
124	23/2/21	James Taseer Bromsgrove  Proved in absence	£220  £135 costs (£175 requested)	Out of area
125	23/2/21	Jayne Tovey Coventry  Proved in absence	£220  £135 costs (£175 requested)	Out of area
126	23/2/21	Simon Wheeler New Malden  Proved in absence	£220  £135 costs (£175 requested)	Out of area
127	9/3/21	Luis Fernando Alexandru Walsall  Proved in absence	£220  £175 costs (£175 requested)	Out of area

128	9/3/21	Ram Chouhan Bedford  Proved in absence	£220  £175 costs (£175 requested)	Out of area
129	9/3/21	Edward Deatcu Birmingham	£220  £175 costs (£175 requested)	North Edgbaston
130	9/3/21	Christopher Horton West Bromwich  Proved in absence	£220  £175 costs (£175 requested)	Out of area
131	23/3/21	Naomi Amoo Birmingham  Guilty plea	£103  £85 costs (£175 requested)	Balsall Heath West
132	23/3/21	Ryan Bailey Birmingham  Guilty plea	£112  £85 costs (£175 requested)	Ladywood
133	23/3/21	Gurjot Singh Bains London  Proved in absence	£220  £85 costs (£175 requested)	Out of area
134	23/3/21	Jeremy Barton Brierley Hill  Proved in absence	£220  £85 costs (£175 requested)	Out of area
135	23/3/21	Neil Fox Leicester  Proved in absence	£220  £85 costs (£175 requested)	Out of area

136	23/3/21	Heidi Garden Wigston  Proved in absence	£220  £85 costs (£175 requested)	Out of area
137	23/3/21	Rebecca Hill Stourbridge  Proved in absence	£220  £85 costs (£175 requested)	Out of area
138	23/3/21	Mohammad Hosseini Coventry  Proved in absence	£220  £85 costs (£175 requested)	Out of area
139	23/3/21	Hope Ryan Hughes Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Tyseley & Hay Mills
140	23/3/21	Adam Hussein Leicester  Proved in absence	£220  £85 costs (£175 requested)	Out of area
141	23/3/21	Eileen Hutchinson Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Aston
142	23/3/21	George Langston Ilford  Proved in absence	£220  £85 (£175 requested)	Out of area
143	23/3/21	Radslaw Lebowski Southampton  Proved in absence	£220  £85 (£175 requested)	Out of area



144	23/3/21	Lilian Martocian Smethwick  Proved in absence	£220  £85 (£175 requested)	Out of area
145	23/3/21	John McDonald London  Proved in absence	£220  £85 (175 requested)	Out of area
146	23/3/21	Tiago Petrica Bristol  Guilty	£245  £85 (£175 requested)	Out of area
147	23/3/21	Enna Proud Birmingham  Proved in absence	£220  £85 (£175 requested)	Kingstanding
148	23/3/21	Christian Schein Birmingham  Proved in absence	£220  £85 (£175 requested)	Sparkhill & Balsall Heath East
149	23/3/21	Mark Smith Birmingham  Proved in absence	£220  £85 (£175 requested)	Out of area
150	23/3/21	Michelle Smith Birmingham  Proved in absence	£220  £85 (£175 requested)	Bartley Green
151	23/3/21	Marc Smyth Birmingham  Guilty plea	£146  £85 (£175 requested)	Out of area

152	23/3/21	Siku Omarr Touray Tamadou Birmingham  Proved in absence	£220  £85 (£175 requested)	North Edgbaston
153	23/3/21	Gemma Tamley Birmingham  Proved in absence	£220  £85 (£175 requested)	Erdington
154	23/3/21	Ian Thomas Birmingham  Proved in absence	£220  £85 (£175 requested)	Aston
155	23/3/21	Cathal Watt Birmingham  Proved in absence	£220  £85 (£175 requested)	Highter's Heath
156	23/3/21	Donna Wheeler Smethwick  Proved in absence	£220  £85 (£175 requested)	Out of area
157	23/3/21	Sophie Williams Redditch  Proved in absence	£88  £85 (£175 requested)	Out of area
158	13/4/21	John Adderley Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Bromford & Hodge Hill

159	13/4/21	Florian Adir Birmingham  Prove in absence	£220  £85 costs (£175 requested)	Birchfield
160	13/4/21	Anthony Aquilina Cardiff  Proved in absence	£220  £175 costs (£175 requested)	Out of area
161	13/4/21	Jake Mark Avery Birmingham  Guilty plea	£40  £90 costs (£175 requested)	Oscott
162	13/4/21	Megan Barron Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Stockland Green
163	13/4/21	Shabaz Bukhari Luton  Proved in absence	£220  £175 costs (£175 requested)	Out of area
164	13/4/21	Martyn Edwin Colvil Wellington  Proved in absence	£220  £175 costs (£175 requested)	Out of area
165	13/4/21	Cosmin Constantin Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Holyhead
166	13/4/21	Michael Conway Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Stirchley

167	13/4/21	Craig Dalby Leicester  Proved in absence	£220  £175 costs (£175 requested)	Out of area
168	13/4/21	Morris Dulewski Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Druids Heath & Monyhull
169	13/4/21	Ionel Gherghina Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Gravelly Hill
170	13/4/21	Aziz Hamed Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Alum Rock
171	13/4/21	Rebecca Harrison Telford  Proved in absence	£220  £175 costs (£175 requested)	Out of area
172	13/4/21	Emma Henderson Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Ward End
173	13/4/21	Shane Hickman Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Bromford & Hodge Hill
174	13/4/21	Stuart Ibdotson Solihull  Proved in absence	£220  £175 costs (£175 requested)	Out of area

175	13/4/21	David Jackson Blackpool  Proved in absence	£220  £175 costs (£175 requested)	Out of area
176	13/4/21	Kirsty Jenson Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Kingstanding
177	13/4/21	Ruth Jones Cardiff  Proved in absence	£220  £175 costs (£175 requested)	Out of area
178	13/4/21	Leandros Koutsouris Brighton  Proved in absence	£220  £175 costs (£175 requested)	Out of area
179	13/4/21	Rakesh Kumar Nottingham  Proved in absence	£220  £175 costs (£175 requested)	Out of area
180	13/4/21	Darren Lee Lavery Walsall  Proved in absence	£220  £175 costs (£175 requested)	Out of area
181	13/4/21	Carla Malin High Wycombe  Proved in absence	£220  £175 costs (£175 requested)	Out of area
182	13/4/21	Michael Moore Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Billesley

183	13/4/21	Ghulam Nabi West Bromwich  Proved in absence	£220  £175 costs (£175 requested)	Out of area
184	13/4/21	Stacey Louise Nightingale Dudley  Proved in absence	£220  £175 costs (£175 requested)	Out of area
185	13/4/21	Usan Omed Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Alum Rock
186	13/4/21	Bradley Pearson Coventry  Proved in absence	£220  £175 costs (£175 requested)	Out of area
187	13/4/21	Emily Powell Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Allens Cross
188	13/4/21	Shi Xian Qing Leicester  Proved in absence	£220  £175 costs (£175 requested)	Out of area
189	13/4/21	Mabub Raman Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Birchfield
190	13/4/21	Alex Roberts Nottingham  Proved in absence	£220  £175 costs (£175 requested)	Out of area

191	13/4/21	Daniel Robertson Bilston  Proved in absence	£220  £175 costs (£175 requested)	Out of area
192	13/4/21	Adam Ryan Shipley  Proved in absence	£220  £175 costs (£175 requested)	Out of area
193	13/4/21	Petronel Alin Sfitu Mitcham  Proved in absence	£220  £175 costs (£175 requested)	Out of area
194	13/4/21	Charlene Slater Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Yardley East
195	13/4/21	Valdis Sudis Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Ladywood
196	13/4/21	Sharon Thomas Cleethorpes  Proved in absence	£220  £175 costs (£175 requested)	Out of area
197	13/4/21	Shantelle Thompson Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Kingstanding
198	13/4/21	Claire Whitmore Leicester  Proved in absence	£220  £175 costs (£175 requested)	Out of area

199	13/4/21	Thomas Wilkinson Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Kings Norton South
200	13/4/21	Trudy Williams Birmingham  Proved in absence	£220  £175 costs (£175 requested)	Bromford & Hodge Hill
201	27/4/21	Abdul Ali Birmingham  Proved in absence	£220  £120 costs (£175 requested)	Sparkbrook & Balsall Heath East
202	27/4/21	Rizan Alin Birmingham  Proved in absence	£220  £120 costs (£175 requested)	Ladywood
203	27/4/21	Michaela Farngione Carmarthen  Proved in absence	£220  £120 costs (£175 requested)	Out of area
204	27/4/21	Marian Gheorghe Birmingham  Proved in absence	£220  £120 costs (£175 requested)	Bordesley Green
205	27/4/21	Andrea Joneslu Bicester  Proved in absence	£220  £120 costs (£175 requested)	Out of area
206	27/4/21	Andrew Kerr Tamworth  Guilty plea	£146  £85 costs (£175 requested)	Out of area



207	27/4/21	Rhea Madourie Manchester  Proved in absence	£220  £120 costs (£175 requested)	Out of area
208	27/4/21	Catherine Newton Liverpool  Proved in absence	£220  £120 costs (£175 requested)	Out of area
209	27/4/21	Vlad Pricop Rugby  Proved in absence	£220  £120 costs (£175 requested)	Out of area
210	27/4/21	Tanith Leigh Roberts Birmingham  Proved in absence	£220  £120 costs (£175 requested)	Ward End
211	27/4/21	Usman Tahir West Bromwich  Proved in absence	£220  £120 costs (£175 requested)	Out of area
212	27/4/21	David Vadasz Dudley  Proved in absence	£220  £120 costs (£175 requested)	Out of area
213	27/4/21	Andrew Wire Birmingham  Proved in absence	£220  £120 costs (£175 requested)	Longbridge & West Heath

### **NOISE NUISANCE CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
214	1/4/21	Thomas Nisbet Birmingham	Environmental Protection Act 1990  Pleaded guilty to nine offences of failing to comply with an Abatement Notice on nine separate occasions and allowing dogs to bark at 104 St Stephens Road, Sutton Coldfield so as to cause a noise nuisance.	£700 fine  £577 costs (£577 requested)	Sutton Walmley & Minworth	Sutton Walmley & Minworth

### **PEST OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
215	15/4/21	Craig Ian Arnold Birmingham	Prevention of Damage by Pests Act 1949  Pleaded guilty to one offence of failing to comply with a notice requiring rodents to be eradicated and overgrowth to be removed from land at 10 Rockley Grove, Birmingham.	£40 fine  £100 costs (£437 requested)	Rubery & Rednal	Rubery & Rednal

### **ENVIRONMENTAL HEALTH SIMPLE CAUTIONS**

Two simple cautions were administered January to April 2021.

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

Two cautions were issued for failing to comply with Food Hygiene Regulations

**LICENSING CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
216	29/3/21	Muhammad Ramzan Birmingham	Equality Act 2010  Pleaded <u>not guilty</u> to one offence of being a private hire driver in Hill Street, Birmingham and failing to carry out a booking accepted by A2B Radio Cars, when the booking was requested on behalf of a disabled person, and the reason for the refusal was that the disabled person was accompanied by an assistance dog.  Found guilty after trial.	£207 fine  £1,000 costs (£2,649 requested)  £100 compensation to complainant	Heartlands	Ladywood

**LICENSING SIMPLE CAUTIONS**

No simple cautions were administered during January to April 2021.

**TRADING STANDARDS CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
217	5/3/21	Miraj Ahmadzai Birmingham	Children and Young Persons Act 1933  Pleaded guilty to one offence of selling a packet of 20 Benson and Hedges cigarettes to a person under the age of 18 at Bordesley Green Mini Market, 752 Bordesley Green, Birmingham	£168 fine  £185 costs (£1,100 requested)	Alum Rock	Heartlands
218	15/3/21	Walee Mamadsi Birmingham	Criminal Justice Act 1988 as inserted by Section 6 of the Offensive Weapons Act 1996.  Pleaded guilty to one offence of selling, through the actions of an employee, a "Dekton" Self-Loading Snap-off knife to a person under the age of 18 at Zahir Supermarket, 476-478 Bordesley Green, Birmingham	£650 fine  £1,608 costs (£1,608 requested)	Heartlands	Heartlands
219	23/3/21 At Crown Court	Miraj Ahmadzai Birmingham	Trade Marks Act 1994  Pleaded guilty to five offences of selling illicit tobacco at Bordesley Green Mini Market, 752 Bordesley Green, Birmingham, namely Benson & Hedges, Richmond and Lambert & Butler cigarettes and pouches of Amber Leaf tobacco	Community Order x 18 months 15 day rehabilitation requirement  £2,400 costs (£2,400 requested)  Forfeiture of goods awarded.	Alum Rock	Heartlands
220	1/4/21	Ishrat Habib Birmingham	Licensing Act 2003  Pleaded guilty to one offence of selling a 4 pack of WKD from Broad News/Yardley Cut Price, 83 Broadstone Road, Yardley, Birmingham to a person under the age of 18	£120 fine  £100 costs (£1,479 requested)	Newtown	Yardley East

**TRADING STANDARDS SIMPLE CAUTIONS**

No simple cautions were administered during March 2021.

**APPENDIX 4****WASTE ENFORCEMENT CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
221	7/1/21	Mohammed Tanzeer Birmingham	Environmental Protection Act 1990  Pleaded guilty to two offences: one of depositing controlled waste, namely 15 wooden/plastic crates and 8 black bin bags containing food waste, on land at Burbidge Road, Bordesley Green, Birmingham and one offence of failing to provide written information as to how the business at Buywise Superstore Ltd, 77-79 Yardley Road, Birmingham disposes of its waste.	£1,065 - 1 <sup>st</sup> offence  No separate penalty for remaining offence  £1,031 costs awarded (£1,031 requested)	Small Heath	Bordesley & Highgate
222	7/1/21	Buywise Superstore Ltd 77-79 Yardley Road Acocks Green Birmingham B27 6LL	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to provide written information as to how the business at Buywise Superstore Ltd, 77-79 Yardley Road, Birmingham disposes of its waste.	£500  No costs awarded (£764 requested)	Acocks Green	Acocks Green
223	7/1/21	Pique Armand Tscheumento Birmingham	Environmental Protection Act 1990  Found guilty in absence of one offence of failing to provide written information as to how the business at H & H Appliances, 37 Olton Boulevard East, Birmingham disposes of its waste.	£660  £356 costs awarded (£356 requested)	Bartley Green	Acocks Green
224	21/1/21	Ako Nasradin Ali Birmingham	Environmental Protection Act 1990  Pleaded guilty to two offences of failing to provide written information as to how the business at AG Mini Market, 33 Westley Road, Birmingham disposes of its waste.	£500  £1,081 costs awarded (£1,081 requested)	Handsworth	Acocks Green

225	21/1/21	Courtney Lorraine Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to provide written information as to how the business at Stylin Station, 18 Station Road, Erdington, Birmingham, disposes of its waste.	£200  £100 costs awarded (£591 requested)	Glebe Farm & Tile Cross	Erdington
226	21/1/21	Cristian-Orest Farcas Birmingham	Environmental Protection Act 1990  Pleaded guilty to two offences: one of depositing controlled waste, namely 10 plastic sacks containing green waste, on Cranby Street, Birmingham and one offence of depositing controlled waste, namely a fridge freezer, on Bolton Road, Birmingham.	£1,000 (£500 x 2)  £802 costs awarded (£802 requested)	Bordseley Green	Alum Rock
227	21/1/21	Four Oaks (WM) Ltd 44-45 Calthorpe Road Edgbaston Birmingham B15 1TH	Environmental Protection Act 1990  Found guilty in absence of one offence of failing to provide written information as to how the business at UK Supermarket, 1082-1084 Stratford Road, Hall Green, Birmingham disposes of its waste.	£700  £617 costs awarded (£617 requested)	Edgbaston	Hall Green North
228	21/1/21	Nelu Vaduva Birmingham	Environmental Protection Act 1990  Pleaded guilty to three offences of depositing controlled waste, namely a large plastic liquid container, a large cardboard box and a 5 litre plastic container, from a vehicle on Dugdale Street, Winson Green, Birmingham.	£750 (£250 x 3)  £700 costs awarded (£1,584 requested)	Hall Green North	Soho & Jewellery Quarter
229	10/2/21	Top Quality Superstore Ltd 145 Lozells Road Birmingham B19 2TP	Environmental Protection Act 1990  Found proved in absence of one offence of failing to provide written information as to how the business at Top Quality Superstore Ltd, 145 Lozells Road, Birmingham disposes of its waste.	£700  £1,107 costs awarded (£1,107 requested)	Lozells	Lozells

230	23/2/21 at Crown Court	James Michael McCann Birmingham	Environmental Protection Act 1990 Consumer Protection from Unfair Trading Regs 2008 Environment Act 1995  Pleaded guilty to four offences: one of depositing controlled waste, namely building materials and tarmac, from a vehicle on land at Wolseley Drive, Hodge Hill, Birmingham, one of engaging in a commercial practice as a builder and falsely indicating, by means of a website, that he was “fully insured” when he was not and two offences of failing to supply written information as to how the business disposes of its waste.	13 months imprisonment – offence 1  No separate penalty for remaining offences  No order as to costs  Compensation £1,537	Bartley Green	Ward End
231	24/2/21	Craig Young Birmingham	Environmental Protection Act 1990  Pleaded <u>not guilty</u> to two offences of knowingly causing controlled waste, including a single mattress, cardboard tubing, pieces of carpet and cardboard boxes, to be deposited from a vehicle on land at Heath Street South, Birmingham.  Found guilty after trial.	Conditional Discharge x 3 years  £250 costs awarded (£2,466 requested)	Longbridge & West Heath	Hockley
232	1/3/21	Darbas Rashid Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to provide written information as to how the business at Naan & Roti, 98 Stoney Lane, Birmingham disposes of its waste.	£300 fine  £600 costs (£1,545)	Ward End	Sparkbrook & Balsall Heath East
233	18/3/21	Lena Scarlett Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to provide written information as to how the business at Tantleyz, 861 Bristol Road South, Birmingham disposes of its waste.	£300 fine  Spent the day in the cells so fine deemed paid  £100 costs (£220 requested)	Frankley Great Park	Northfield



234	18/3/21	Wantousy Remy Birmingham  Wan2klean Ltd 18 Admiral Place Moseley Birmingham B13 8BQ	Environmental Protection Act 1990  Remy pleaded guilty to one offence of depositing controlled waste, namely black bags, a portable radiator, metal cylinder and wooden chairs, on the residential carpark adjacent to 60 Selly Hill Road, Selly Oak, Birmingham Company pleaded guilty to one offence of depositing controlled waste, namely 25 large bags of soil and green waste, empty plastic bottles and plastic tubing, on Heath Street South, Birmingham	Remy - 12 month community order 60 hours unpaid work with 15 days rehabilitation activity  Company £260 fine  Remy £200 costs Company £160.50 clean-up costs (£3,715 requested)	Brandwood & Kings Heath	Bournbrook & Selly Park
235	1/4/21	Amir Ghulam Birmingham	Environmental Protection Act 1990  Pleaded guilty to two offences of failing to comply with two notices issued by an authorised officer requiring details of the person in control of a vehicle involved in depositing waste on the pavement in Arthur Road, Yardley, Birmingham to be provided.	£300 fine  £400 costs (£1,574 requested)	Gravelly Hill	Tyseley & Hay Mills
236	19/4/21	Anthony Morrison Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely one black bag of waste, from a motor vehicle on land at Kingsbury Road, Castle Vale, Birmingham	£320 fine  £300 costs (£731 requested)	Erdington	Pype Hayes
237	23/4/21	Mary McDonough Oldbury	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to ensure household waste produced at Yardley Close, Oldbury was transferred to an authorised person, as the waste was found deposited on Kitwell Lane, Woodgate, Birmingham  Originally listed for trial	£200 fine  £250 costs (£1,873 requested)	Out of area	Bartley Green

238	29/4/21	Robert Casserley Birmingham	<p>Environmental Protection Act 1990</p> <p>Found proved in absence of three offences: one of knowingly causing controlled waste, namely broken household furniture, wooden boards, plastic sheeting and a builders size sack containing various items, to be deposited from a vehicle on land at the entrance of the Walsall Road Allotments, Church Road, Perry Barr, Birmingham and two of failing to provide information as to how the business of Fab Fencing disposes of its waste</p>	<p>£200 fine</p> <p>£250 costs (£1,873 requested)</p>	Kingstanding	Perry Barr
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#### **WASTE ENFORCEMENT SIMPLE CAUTIONS**

No simple cautions were administered during January to April 2021.

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – JANUARY, FEBRUARY, MARCH & APRIL 2021**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	1	0	0	0	0	0	0	<b>1</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	195	0	0	0	0	0	0	<b>195</b>
Environmental Health (including WEU)	1	3	5	4	10	2	2	3	2	6	0	<b>38</b>
Trading Standards	0	0	0	3	0	0	0	0	0	1	0	<b>4</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) JANUARY, FEBRUARY, MARCH & APRIL 2021**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	1	0	0	0	0	0	0	0	<b>1</b>
Environmental Health (FPNs) Not paid and prosecuted	4	8	15	13	18	5	10	3	3	4	112	<b>195</b>
Environmental Health (including WEU)	3	3	3	6	7	3	2	2	2	3	4	<b>38</b>
Trading Standards	0	0	0	3	1	0	0	0	0	0	0	<b>4</b>

### **CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL 2020 – APRIL 2021**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	2	0	1	1	13	0	1	1	0	0	0	<b>19</b>
Environmental Health (FPNs) Not paid and prosecuted	0	1	0	1	434	0	0	0	0	0	0	<b>436</b>
Environmental Health (including WEU)	1	3	11	10	20	3	3	4	4	12	0	<b>71</b>
Trading Standards	0	0	0	3	1	1	2	0	0	1	0	<b>8</b>

### **CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) APRIL 2020 – APRIL 2021**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	2	4	5	0	2	0	0	2	4	<b>19</b>
Environmental Health (FPNs) Not paid and prosecuted	15	16	33	27	51	8	15	8	4	14	245	<b>436</b>
Environmental Health (including WEU)	3	5	10	8	17	6	3	4	3	5	7	<b>71</b>
Trading Standards	0	0	1	4	1	0	1	1	0	0	0	<b>8</b>

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**  
**APRIL 2020 – APRIL 2021**

Waste Investigation Outcomes														
	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	1	6	4	58	7	56	68	44	399	0	221	96	19	979
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	1	4	2	52	5	52	68	44	395	1	220	0	19	863
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	32	2	2	2	1	3	0	0	2	0	1	3	1	49
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences (£80)	1	0	0	1	1	0	0	0	0	0	0	0	0	3
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	1	7	2	11	8	2	3	5	5	7	5	0	4	60
Prosecutions														
Number of prosecution files submitted to legal services, (number produced quarterly.	4	1	11	10	4	0	0	0	1	5	7	3	2	48

Monthly Parking Pcms Issue for Current  
Financial Year (excludes voids)      Processing

April 2020	42
May 2020	62
June 2020	111
July 2020	185
August 2020	253
September 2020	227
October 2020	247
November 2020	148
December 2020	130
January 2021	120
February 2021	103
March 2021	94
April 2021	103
TOTAL	1825

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OR  
REGULATION AND ENFORCEMENT  
TO THE LICENSING & PUBLIC PROTECTION COMMITTEE**

**23 JUNE 2021**  
**ALL WARDS**

**ACTION TAKEN BY THE CHAIR OF THE LICENSING  
& PUBLIC PROTECTION COMMITTEE:**  
**APRIL 2021**

1. Summary
  - 1.1 This report advises the Committee of action taken by the Chair under authority from the Licensing & Public Protection Committee, together with an explanation as to why this authority was used.
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Sajeela Naseer Head of Licensing  
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### 3. Background Information

- 3.1 On 16 March 2007 Section 52 of the Road Safety Act 2006 came into force. This has had the effect of enabling a licensing authority to suspend or revoke a hackney carriage or private hire driver's licence with immediate effect – meaning that the suspension or revocation takes effect immediately once notice of the authority's decision has been given to the driver – where this decision is considered necessary in the interests of public safety.

### 4. Summary of Action Taken for November 2020

- 4.1 On 8 April 2021 authority was sought to revoke with immediate effect the private hire driver licence held by driver reference 5142. On 7 April 2021 the Licensing Enforcement Section received information from Staffordshire Police to the effect that the driver has been arrested for an allegation of driving whilst nearly twice the legal drink drive limit conveying passengers on the M54 Motorway.
- 4.2 The interests of public safety being considered paramount, an authorisation of the Director of Regulation and Enforcement, acting in consultation with the Chair, was obtained and on 08 April 2021 notice was hand delivered personally to driver 5142's last known address, advising that his private hire driver licence was suspended with immediate effect, in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

### 5. Implications for Resources

- 5.1 No specific implications have been identified; however, drivers retain the right to appeal through a Magistrates' Court, which may result in the imposition of costs either to or against the City Council.

### 6. Implications for Policy Priorities

- 6.1 The contents of the report contribute to the City Council's published policy priority of improving the standards of licensed vehicles, people and premises in the City.

### 7. Implications for Equality and Diversity

- 7.1 The actions identified in this report were taken in accordance with the Regulatory Services enforcement policy, which ensures that equality issues have been addressed.

## **INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**