

**BIRMINGHAM CITY COUNCIL**

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

**12 FEBRUARY 2020**  
**ALL WARDS**

**PROSECUTIONS AND CAUTIONS – DECEMBER 2019**

1. Summary
  - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of December 2019.
2. Recommendation
  - 2.1 That the report be noted.

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### 3. Results

3.1 During the month of December 2019 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- 20 Environmental Health cases were finalised resulting in fines of £13,693. Prosecution costs of £6,044 were awarded. No simple cautions were administered as set out in Appendix 1.
- Two Licensing cases were finalised resulting in fines of £480 and 14 penalty points issued. Prosecution costs of £1,500 were awarded. No simple cautions were administered as set out in Appendix 2.
- No Trading Standards cases were finalised and one simple caution was administered as set out in Appendix 3.
- Five Waste Enforcement cases were finalised resulting in fine of £1,426 Prosecution costs in the sum of £2,350 were awarded. No simple cautions were administered as set out in Appendix 4.
- Appendix 5 lists cases finalised by district in December 2019 and cases finalised by district April 2019 – December 2019.
- Appendix 6 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2019 to December 2019.

### 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 2019 to December 2019 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£200,871 has been requested with £160,249 being awarded (80%).

Licensing

£17,798 has been requested with £9,422 being awarded (53%)

Trading Standards

£41,429 had been requested with £21,096 being awarded (51%).

- 5.3 For the month of December 2019 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£9,812 has been requested with £8,394 being awarded (86%).

Licensing

£3,566 has been requested with £1,500 being awarded (42%)

Trading Standards

No costs have been requested or awarded

- 5.4 The following income has been received so far from the courts in 2019/20.

Environmental Health

£59,251 has been received including Waste Enforcement cases.

Licensing

£2,242 has been received.

Trading Standards

£6,060 has been received.

(Total £67,553).

- 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.

**DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

**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>
1	12/12/19	Zurbiyan Restaurant Ltd 392 Coventry Road Birmingham B10 0UF	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to four offences relating to conditions found at Zurbiyan, 392 Coventry Road, Birmingham. There was evidence of both mouse and cockroach activity in the premises. Mouse droppings were found on equipment, on a food preparation surface, shelving, a cutlery tray and the floor of the customer seating area. Juvenile cockroaches were found on the floor of the serving area, adult cockroaches, egg casings and cockroach droppings were found with general dirt and debris under the front counter display unit. The premises was not kept clean, the refrigerator in the rear kitchen was dirty, kitchen taps were dirty, shelving was dirty, the extraction canopy above the cooking range was dirty and greasy and there was pooling blood above open food in the walk in chiller. The mincing machine was dirty. There was an open drain in the side preparation room. The external door was ill fitting with a gap allowing pest access into the premises. There were holes in the rear kitchen area, the ceiling of the storage cupboard and along pipework in the customer seating area.</p>	<p>£10,000 – offence 1 No separate penalty for remaining offences.</p> <p>£1,004 costs (£1,004 requested)</p>	Bordesley Green	Bordesley Green

**LITTER OFFENCES – SJP**

	<b>Date Case Heard</b>	<b>Name</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>
2	10/12/19	Jordan Cope Worcester  Proved in absence	£220  £350 costs (£175 requested)	Out of area
3	10/12/19	Angela Craig Birmingham  Proved in absence	£220  £350 costs (£175 requested)	Bournville & Cotteridge
4	10/12/19	Lulian Madalin Curtea Birmingham  Proved in absence	£220  £120 costs (£175 requested)	Soho & Jewellery Quarter
5	10/12/19	Jack Garghan Birmingham  Proved in absence	£220  £350 costs (£175 requested)	Rubery & Rednal
6	10/12/19	Louise Gwilt Shrewsbury  Guilty plea	£40  £85 costs (£175 requested)	Out of area
7	10/12/19	Karl Harris Birmingham  Guilty plea	£146  £100 costs (£175 requested)	Bournville & Cotteridge

8	10/12/19	Tamassina Hessel London  Proved in absence	£220  £350 costs (£175 requested)	Out of area
9	10/12/19	Sarwar Hussaini Birmingham  Proved in absence	£220  £350 costs (£175 requested)	Newtown
10	10/12/19	Chloe Jones Birmingham  Proved in absence	£220  £350 costs (£175 requested)	Moseley
11	10/12/19	Aaron Kettle Oldbury  Proved in absence	£220  £350 costs (£175 requested)	Out of area
12	10/12/19	Adrian Lang Redditch  Proved in absence	£220  £350 costs (£175 requested)	Out of area
13	10/12/19	Zac Little Solihull  Proved in absence	£220  £350 costs (£175 requested)	Out of area
14	10/12/19	Peter McGeechan Glasgow  Guilty plea	£70  £85 costs (£175 requested)	Out of area
15	10/12/19	Alistair McMurray Leicester  Guilty plea	£137  £100 costs (£175 requested)	Out of area

16	10/12/19	Laura Roberts Bromsgrove  Proved in absence	£220  £350 costs (£175 requested)	Out of area
17	10/12/19	Mohammed Tariq Birmingham  Proved in absence	£220  £350 costs (£175 requested)	Ladywood
18	10/12/19	Yue Wang Preston  Proved in absence	£220  £350 costs (£175 requested)	Out of area
19	10/12/19	Robert Waslik London  Proved in absence	£220  £175 costs (£175 requested)	Out of area
20	10/12/19	Bradley Wright Liverpool  Proved in absence	£220  £175 costs (£175 requested)	Out of area

#### **LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE**

<b>Date Cases Heard</b>	<b>Total Number of Cases</b>	<b>Total Fines imposed</b>	<b>Total Costs awarded</b>	<b>Total Costs requested</b>
10/12/19	19	£3,693	£5,040	£3,325

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

During the period of December 2019 no simple cautions were administered.

**LICENSING CASES****APPENDIX 2**

	<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>
21	4/12/19	MD Golam Mukthadir Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded <u>not guilty</u> to two offences; one of plying for hire on Navigation Street, Birmingham and one of consequently having invalid insurance.  Found guilty after trial.	£180 – no insurance  + 8 penalty points  No separate penalty for plying.  £500 costs (£2,122 requested)	Quinton	Ladywood
22	13/12/19	Syed Abdur Rahim Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded <u>not guilty</u> to two offences; one of plying for hire on Smallbrook Queensway, Birmingham and one of consequently having invalid insurance.  Found guilty after trial.	£300 – plying  + 6 penalty points  No separate financial penalty for no insurance  £1,000 costs (£1,444 requested)	Holyhead	Ladywood

**LICENSING SIMPLE CAUTIONS**

During the period of December 2019 no simple cautions were administered.



**TRADING STANDARDS CASES**

No Trading Standards prosecutions were finalised during December 2019.

**TRADING STANDARDS SIMPLE CAUTIONS**

During the period of December 2019 one simple caution was administered.

**Trade Marks Act 1994**

One simple caution was administered for having in possession, custody or control in the course of a business, goods namely, handbags, watches, belts, purses and sunglasses, which bore signs identical to or likely to be mistaken for registered trademarks, namely, Michael Kors, Yves Saint Laurent, Versace, Patek Philippe, Boss or Hugo Boss, Hermes, Diesel, Luis Vuitton, Prada and Lacoste.

**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>
23	11/12/19	Rashta Rafique Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of causing controlled waste, namely a large quantity of refuse sacks filled with domestic waste and wallpaper, a toilet cistern, boxes and hedge trimmers to be deposited from a vehicle under his control onto land on Cranby Street, Birmingham.	£180  £1,000 costs (£2,033 requested)	Shard End	Alum Rock
24	12/12/19	Duman Marian Cadular Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely carpets, refuse sacks and bulky waste furniture pieces on land in Cranby Street, Birmingham.	£430  £500 costs (£1,399 requested)	Alum Rock	Alum Rock
25	12/12/19	Charlene Gwatidzo- Rusike Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Stylers Afro Hair Salon and Barber, 39-41 Station Road, Erdington, Birmingham was disposed of within 7 days.	£300  £50 costs (£340 requested)  Sat at the back of Court for the afternoon. Magistrates deemed this as sentence served. No financial penalty to pay.	Castle Vale	Erdington

26	12/12/19	Robert Valentine Briscoe Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of causing or permitting controlled waste, namely numerous black bin bags of waste, to be deposited on Heath Street South, Winson Green, Birmingham.	£416  £400 costs (£815 requested)	Bordesley & Highgate	Ladywood
27	18/12/19	Mohammed Ahmed Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from M J Barbers, 427-429 Moseley Road, Birmingham was disposed of within 7 days.	£100  £400 costs (£896 requested)	Balsall Heath West	Balsall Heath West

#### **WASTE ENFORCEMENT SIMPLE CAUTIONS**

No simple cautions were administered during December 2019.

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – DECEMBER 2019**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	2	0	0	0	0	0	0	<b>2</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	19	0	0	0	0	0	0	<b>19</b>
Environmental Health (including WEU)	0	1	1	2	2	0	0	0	0	0	0	<b>6</b>
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – DECEMBER 2019**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	0	0	1	0	0	0	0	<b>2</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	1	0	3	1	0	2	0	0	12	<b>19</b>
Environmental Health (including WEU)	0	1	1	2	2	0	0	0	0	0	0	<b>6</b>
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-DECEMBER 2019**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	3	1	1	0	12	0	0	0	3	0	0	<b>20</b>
Environmental Health (FPNs) Not paid and prosecuted	0	1	0	0	478	0	0	0	0	0	0	<b>479</b>
Environmental Health (including WEU)	2	7	16	20	34	2	9	6	2	4	0	<b>102</b>
Trading Standards	0	0	0	2	4	1	5	0	1	3	0	<b>16</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-DECEMBER 2019**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	2	2	1	2	5	0	3	0	0	1	4	<b>20</b>
Environmental Health (FPNs) Not paid and prosecuted	30	24	23	30	58	17	32	17	4	20	224	<b>479</b>
Environmental Health (including WEU)	1	10	19	19	24	0	9	4	1	4	11	<b>102</b>
Trading Standards	0	0	1	2	1	1	5	1	1	3	1	<b>16</b>

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**  
**APRIL 2019 – MARCH 2020**

Waste Investigation Outcomes													
	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	64	97	93	94	92	83	127	123	26				799
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	37	59	64	51	45	50	76	60	12				454
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	7	9	39	37	10	36	39	25	9				211
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	0	0	0		0	0	0	0				0
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	4	7	4	7	4	10	6	8	4				11
Prosecutions													
Number of prosecution files submitted to legal services, (number produced quarterly.	13	10	35	9	9	7	13	11					107

