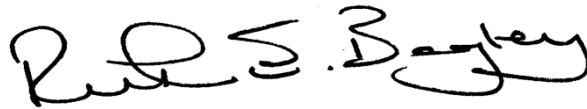


Date of issue: 16th November, 2015

MEETING:	LICENSING SUB-COMMITTEE (Councillors Davis (Chair), Shah and Wright)
DATE AND TIME:	WEDNESDAY, 25TH NOVEMBER, 2015 AT 10.00AM
VENUE:	VENUS SUITE 2, ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, BERKSHIRE, SL1 3UF
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	TERESA CLARK 01753 875018

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



RUTH BAGLEY
Chief Executive

AGENDA

PART I

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	CONSTITUTIONAL MATTERS		
1.	Declarations of Interest		
	<i>All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare</i>		

that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the Councillors’ Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.

The Chair will ask Members to confirm that they do not have a declarable interest.

All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.

- | | | |
|----|---|-------|
| 2. | Guidance on Predetermination/ Predisposition -
To Note | 1 - 2 |
| 3. | Minutes of the Last Meeting held on 22nd
October, 2015 | 3 - 6 |

LICENSING ISSUES

This ‘General’ Licensing Sub-Committee is convening to hear and decide licensing matters other than those arising under the Licensing Act 2003 and Gambling Act 2005. This includes (amongst others) applications for hackney carriage/private hire drivers’ licences, hackney carriage/private hire vehicle licences and street trading consents.

4. Exclusion of the Press and Public

It is recommended that the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraphs 1 and 2 of Part I of Schedule 12A to the Local Government Act 1972.

PART II

- | | | |
|----|--|--------|
| 5. | Private Hire Driver and Operator Conduct
Hearing- (Reference 01-15) | 7 - 34 |
|----|--|--------|

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Licensing Sub-Committee – Meeting held on Thursday, 22nd October, 2015.

Present:- Councillors Davis (Chair), Shah and Wright

Officers Present:- Teresa Clark, Senior Democratic Services Officer, Neil Fraser, Democratic Services Officer, Maureen Ogbu, Legal Advisor to the Sub-Committee, Tara O’Keefe, Licensing Officer, Tola Idowu, Licensing Officer.

PART 1

1. Declarations of Interest

None.

2. Guidance on Predetermination/ Predisposition - To Note

Resolved - Members confirmed that they had read and understood the guidance on predetermination and predisposition.

3. Minutes of the Last Meeting held on 11th December, 2014

Resolved - That the minutes of the meeting of the Licensing Sub-Committee held on 11th December 2014 be approved as a correct record.

4. Exclusion of the Press and Public

Resolved – That the press and public be excluded from the remainder of the meeting as the items to be considered contained exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended).

5. Private Hire Driver and Operator Conduct Hearing- (Reference 01-15)

The Following is a Part 1 summary of the case:

The Licensing Sub-Committee was asked to consider whether the Driver (Reference 01-15) was a fit and proper person to continue to hold a Private Hire Driver and Operator’s licence.

At the commencement of the hearing the Driver requested an adjournment of hearing so that legal representation could be sought. The Licensing Officer was allowed the opportunity to make representations.

Licensing Sub-Committee - 22.10.15

The Sub-Committee decided to defer the hearing of the case and it was agreed that a new date hearing be arranged at the earliest opportunity.

Resolved - That the hearing be adjourned to a future date.

6. Private Hire Operator Conduct Hearing- (Reference 02-15)

The Following is a Part 1 summary of the case:

The Licensing Sub-Committee was asked to consider whether the Applicant (Reference 02-15) was a fit and proper person to hold a Private Hire Operator's licence. The Applicant attended the hearing.

The Licensing Officer summarised the background to the application and discussed the relevant Policy and Legislative considerations in this case. He advised Members that the Sub-Committee could only allow an applicant to hold a Private Hire Operator's licence if they were satisfied that the applicant was a 'fit and proper' person to hold that licence.

The Sub-Committee was advised that the applicant had been convicted in September 2014 of acting as an unlicensed driver and using an unlicensed vehicle, contrary to chapter 34, section 12(1) and section 6(1) of the Private Hire Vehicles (London) Act 1998, and for using a vehicle uninsured for Hire and Reward. The Sub-Committee was advised that to date, the applicant had failed to notify the Licensing Office of this conviction as required by the conditions attached to the Private Hire Operator licence.

The Officer submitted that, in light of the above conviction and the applicant's failure to notify the Licensing Office of this conviction, the applicant was not deemed a fit and proper person to hold a Private Hire Operator's Licence in Slough, and it was recommended that the licence be revoked.

The Applicant addressed the Sub-Committee and accepted that he had chosen to carry a passenger in an unlicensed vehicle, without insurance, and he put forward mitigation.

With regard to the lack of declaration of outstanding charges when applying for a renewal of the Private Hire Operator's Licence, the applicant submitted that as the offence was committed whilst acting as a driver for an Operator licensed by Transport for London, he did not understand that this needed to be declared when applying for a renewal of a license issued by Slough Borough Council.

The applicant submitted that the Private Hire Operator's Licence held in Slough was not currently used, though there were plans to use this in the future.

The Sub-Committee adjourned to reach its decision and carefully considered all the evidence. Members were concerned about what the offences showed

Licensing Sub-Committee - 22.10.15

about the applicant's honesty, ability to take responsibility as a driver, and about whether he would be a safe driver.

The Sub-Committee decided, in view of the concerns outlined above, that the applicant was not a fit and proper person to hold a Private Hire Operator's Licence in Slough, and therefore the licence was revoked.

Resolved - That the Private Hire Operator Licence, ref 02-15, be revoked.

7. Private Hire Driver (Grant) Application (Reference 03-15)

The Following is a Part 1 summary of the case:

The Licensing Sub-Committee was asked to consider whether the Applicant (Reference 03-15) was a fit and proper person to hold a Private Hire Drivers licence. The Applicant attended the hearing.

The Licensing Officer summarised the background to the case and discussed the relevant Policy and Legislative considerations in this case. He advised Members that the Sub-Committee could only allow an Applicant to hold a Private Hire Operator's licence if they were satisfied that the Applicant was a 'fit and proper' person to hold that licence.

The Sub-Committee was advised that the Applicant held a Private Hire driver and vehicle licence issued by Slough Borough Council. He had pled guilty to a non violent offence at East Berkshire Magistrates Court for which he was given a one-year conditional discharge, and a one-year restraining order.

The Applicant had not declared the offence to the Licensing Authority and was therefore in breach of the conditions of his licence which had necessitated the matter being referred to the Sub-Committee. The Licensing Officer recommended that Applicant's licence be revoked but that the Sub-Committee should have regard to any representations made.

The Applicant advised that he was unaware he should have disclosed the offence as he received a conditional discharge and he had not deliberately withheld the information. It was argued that revocation of his licence would be disproportionate.

The Sub-Committee decided to issue a strict warning to the Applicant with regard to his future behaviour and compliance with the conditions of his private hire driver's licence.

Resolved- That Driver Reference 03-15 be issued with a strict warning and any future breaches of his licence conditions be referred to the Sub-Committee

Chair

(Note: The Meeting opened at 10.00 and closed at 13.45)

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