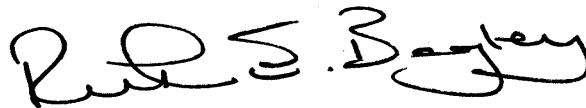


Date of issue: 11th April 2016

MEETING:	LICENSING SUB-COMMITTEE (Councillors Davis (Chair), Malik and Munawar)
DATE AND TIME:	TUESDAY, 19TH APRIL, 2016 AT 10.00 AM
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>		

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

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.

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|----|---|-------|
| 2. | Guidance on Predetermination/ Predisposition -
To Note | 1 - 2 |
| 3. | Minutes of the Last Meeting held on 20th January
2016 | 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 Application (Grant) Hearing-
(Reference 05-15) | 7 - 14 |
|----|---|--------|

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 Wednesday, 20th January, 2016.

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

PART 1

13. Declarations of Interest

None.

14. Guidance on Predetermination/ Predisposition - To Note

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

15. Minutes of the Last Meeting held on 25th November, 2015

Resolved - That the minutes of the meeting held on 25th November, 2015, be approved as a correct record.

16. Premises Licence Review- Skyways Hotel, 19-21 London Rd, Slough, Berkshire SL3 7RL

The Sub-Committee considered a review of the Premises Licence for Skyways Hotel, requested by Thames Valley Police under section 51 of the Licensing Act 2003.

Mr Sims, Licensing Manager, advised the Sub-Committee that on 15th January 2016, he received a notification from the law firm representing Skyways Hotel confirming that the Licensee had surrendered the premises licence in respect of Skyways Hotel. It was highlighted that the surrender related to the hotel part of the premises and that a new Licensee had obtained a new premises licence for the restaurant.

Ms Debie Pearmain, Thames Valley Police, had indicated that following the surrender of the licence, she had no objection to the hearing being dispensed with. Mr Sims therefore recommended that the Sub-Committee dispense with the premises licence review hearing on the grounds that it was no longer necessary.

Resolved - That the premises licence review for Skyways Hotel, 19-21, London Road, Slough, be dispensed with.

17. 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

Licensing Sub-Committee - 20.01.16

Part I of Schedule 12A to the Local Government Act 1972 (as amended).

18. Private Hire Driver and Operator Conduct Hearing- (Reference 04-15)

The Following is a Part 1 summary of the case:

The Licensing Sub-Committee was asked to consider whether Applicant (Reference 04-15) was a fit and proper person to continue to hold a Private Hire Driver's licence and Private Hire Operator's licence in Slough. The Appellant attended the hearing.

The Licensing Manager summarised the background to the case and discussed the relevant Policy and Legislative considerations. He advised Members that the Sub-Committee could only allow an Applicant to hold the aforementioned licences if it was satisfied that the applicant was a 'fit and proper' person to do so.

The Sub-Committee was advised that in November 2014, Slough Borough Council Licensing Officers were taking part in a Taxi Tout Squad Operation exercise in conjunction with the Metropolitan Police and Public Carriage Office at Heathrow Airport. The Appellant was observed dropping a passenger at Heathrow Terminal 5. It was confirmed at the time that the vehicle used was not registered with the Traffic Commissioner.

The passenger had been picked up from a hotel in Slough and the Appellant confirmed that his licensed vehicle had not started that morning so he had used a replacement vehicle. The Appellant stated that the vehicle in question was normally only used for transporting his family members.

On 10th December 2014, a member of the Licensing Team wrote to the appellant advising that he was being reported for using an unlicensed vehicle and reminding him that he must notify the Licensing Team within 7 days of any convictions, cautions, or motoring offences.

The Appellant was subsequently convicted in May 2015 of 'using an unlicensed private hire vehicle' and of 'using a vehicle uninsured for Hire and Reward' in November 2014, contrary to section 46 (1)(e)(i) of the Local Government (Miscellaneous Provisions) Act 1976.

The Sub-Committee was advised that, when submitting an application to renew the Private Hire Operator's licence in September 2015, the Appellant failed to declare his conviction for using an unlicensed vehicle. The Licensing Team were later notified of the conviction by the Metropolitan Police, via email.

The Licensing Officer submitted that, in light of the above conviction and the Appellant's failure to notify the Licensing Office of this conviction, the Appellant was not deemed a fit and proper person to hold a Private Hire

Licensing Sub-Committee - 20.01.16

Operator's Licence or a Private Hire Driver's Licence in Slough, and it was recommended that both licences be revoked.

The Appellant presented evidence to the Sub-Committee in mitigation.

The Sub-Committee adjourned to reach its decision and carefully considered the evidence. Members were concerned about what the offences showed about the Appellant's honesty, the ability to take responsibility as a driver, and about whether passengers would be safe in the driver's vehicle.

The Sub-Committee decided that the Appellant was not a fit and proper person to continue to hold a Private Hire Driver's licence in Slough, and decided that the licence be revoked.

With respect to the Private Hire Operator's Licence, the Sub-Committee decided that the Appellant should be issued a strict formal warning as to his future responsibilities and conduct as a Private Hire operator.

Resolved - (a) That the Private Hire Driver's Licence (ref 04-15) be revoked.
(b) That a formal warning be issued in respect of the Appellant's Private Hire Operator's Licence.

Chair

(Note: The Meeting opened at 10.00 am and closed at 11.45 am)

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AGENDA ITEM 5

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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