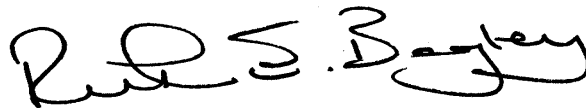


Date of issue: 27<sup>th</sup> September, 2016

<b>MEETING:</b>	<b>LICENSING SUB-COMMITTEE</b> (Councillors Davis (Chair), Rasib and Wright)
<b>DATE AND TIME:</b>	MONDAY, 10TH OCTOBER, 2016 AT 10.00 AM
<b>VENUE:</b>	VENUS SUITE 2, ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, BERKSHIRE, SL1 3UF
<b>DEMOCRATIC SERVICES OFFICER:</b> (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.		
	<b>CONSTITUTIONAL MATTERS</b>		
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.*

- |    |  |       |
|----|--|-------|
| 2. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 |
| 3. | Minutes of the Last Meeting held on 19th April, 2016   | 3 - 4 |

**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 Conduct Hearing- (Reference 01-16) | 5 - 16  |
| 6. | Private Hire Driver Conduct Hearing- (Reference 02-16) | 17 - 36 |

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.

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## 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 Tuesday, 19th April, 2016.**

**Present:-** Councillors Davis (Chair), Malik and Munawar

**Officers Present:-** Mick Sims, Licensing Manager  
Nicola Keegan, Licensing Officer

**Apologies for Absence:-** None.

**PART 1**

**19. Declarations of Interest**

None.

**20. Guidance on Predetermination/ Predisposition - To Note**

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

**21. Minutes of the Last Meeting held on 20th January 2016**

**Resolved -** That the minutes of the meeting held on 20<sup>th</sup> January, 2016, be approved as a correct record.

**22. 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).

**23. Private Hire Driver Application (Grant) Hearing- (Reference 05-15)**

The Following is a Part 1 summary of the case:

The Licensing Sub-Committee was asked to consider whether Applicant (Reference 05-15) was a fit and proper person to hold a Private Hire Driver's licence in Slough. The Applicant did not attend 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 a Private Hire Driver's Licence if it was satisfied that the applicant was a 'fit and proper' person to do so.

The Sub-Committee was advised that the Applicant had submitted an application for a Private Hire Driver's Licence in Slough, in July, 2015 but had

## Licensing Sub-Committee - 19.04.16

failed to declare on the application form that he had received a caution in October, 2014, from Thames Valley Police. This was confirmed in January 2016, when the Applicant attended the Licensing office to produce his Disclosure and Barring Service Certificate. In the circumstances the application was referred to the Licensing Sub-Committee for determination.

The Licensing Officer submitted that, in light of the failure to declare the caution which was received due to violent behaviour, the Applicant was not deemed to be a safe person to hold a Private Hire Driver's licence in Slough and recommended that the application be rejected.

The Sub-Committee was advised that the Applicant had signed the application form in the knowledge that he would be would be liable to prosecution if he knowingly or recklessly 'omitted any material particular.' He also had ticked the box confirming that he had received a policy booklet. It was also noted that the caution was not 'spent' and therefore must still be taken into account. The undeclared caution related to an offence of a violent nature and therefore was relevant to whether the Applicant was a fit and proper person and if the licence applied for should be granted.

The Sub-Committee adjourned to reach its decision and carefully considered the evidence. Having regard to the available evidence, the Sub-Committee was not satisfied that the Applicant was a fit and proper person to hold a licence in Slough.

**Resolved** - That the Private Hire Driver's application (ref 05-15) Licence be rejected.

Chair

(Note: The Meeting opened at 10.00 am and closed at 10.40 am)



**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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**AGENDA ITEM 6**

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

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