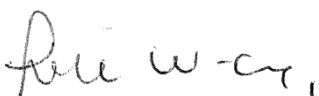


Date of issue: Wednesday 6th November, 2019

MEETING:	LICENSING SUB-COMMITTEE (Councillors Dhaliwal (Chair), M Holledge and Sharif)
DATE AND TIME:	THURSDAY, 14TH NOVEMBER, 2019 AT 10.30 AM
VENUE:	ENCELADUS SUITE 4 - OBSERVATORY HOUSE, 25 WINDSOR ROAD, SL1 2EL
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	SHABANA KAUSER 01753 787503

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.



JOSIE WRAGG
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	-	-

All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 4 paragraph 4.6 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
2.	Guidance on Predetermination/ Predisposition - To Note	1 - 2	-
3.	Minutes of the Last Meeting held on 24th June 2019	3 - 6	-
<u>LICENSING ISSUES</u>			
4.	Exclusion of the Press and Public		
<p>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.</p>			
PART II			
<p><i>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.</i></p>			
5.	Private Hire Driver Conduct Hearing (Appellant Reference 03-19)	7 - 64	All

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. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings. 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 Monday, 24th June, 2019.

Present:- Councillors Bains (Chair), Davis and S Parmar

Officers Present:- Mrs Kauser (Democratic Services), Mr Lucas (Legal Services) and Mrs Sagar (Licensing)

PART 1

1. Declarations of Interest

None received.

2. Guidance on Predetermination/ Predisposition - To Note

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

3. Minutes of the Meetings held on 28th January 2019 and 4 March 2019

Resolved – That the minutes of the meetings held on 28th January 2019 and 4th March 2019 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 Conduct Hearing (Reference 05-18)

The following is a Part I summary of the case.

Following introductions the Chair explained the procedure for the hearing and confirmed that all parties had received a copy of the paperwork. The Democratic Services Officer highlighted that there was a missing page from Appendix G and copies were provided to all parties. The Appellant confirmed that he was happy to proceed with the hearing.

The Licensing Sub-Committee was asked to consider whether the Appellant (Reference 05-18) was a fit and proper person to continue to hold a Private Hire Driver Licence. Licensing Officer, Mrs Sagar, summarised the background to the case and options available in relation to the relevant policy and legislation framework. It was outlined that the Licensing Team were informed by Thames Valley Police in February 2019 of an incident where the Appellant was questioned and his vehicle searched. During the search of the boot, officers found items of a sexual nature and noted an expired vehicle licence plate on display. Furthermore, alcohol was also found in the vehicle.

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Members were informed that the Appellant had appeared before a Licensing Sub-Committee in October 2013 for failing to display his vehicle licence on four separate occasions. Mrs Sagar also highlighted that following a vehicle inspection in January 2015 items of a sexual nature were found in the vehicle.

The Appellant detailed the circumstances relating to February 2019 incident and explained that although alcohol had been seized from the vehicle, it did not belong to him and a subsequent breath test confirmed that he had not been drinking. The Sub-Committee were informed that the police had been called following a dispute with a customer. The Appellant submitted that there had not been any complaints about his driving in the past.

Members asked a number of questions including why a personal breath test kit was found in the car and why the correct vehicle licence plate was not displayed. The Appellant stated that he had made an error and forgotten to swap over the licence plates. In relation to the number of items of a sexual nature that had been found, it was explained that these had been left in his vehicle by customers.

In summarising, the Licensing Officer acknowledged that whilst no complaints had been received regarding the Appellant, it was clearly inappropriate to keep items of a sexual nature in a licensed vehicle and that the Sub-Committee were considering whether the Appellant was a fit and proper person, on the balance of probabilities, to continue to hold a Private Hire Driver licence.

The Appellant reiterated that he was not aware of how the items had come to be in his vehicle and relied on his income as a driver and would ensure that he took his responsibilities seriously in his future conduct as a licensed driver.

Resolved – That Appellant Reference 05-18's Private Hire Driver licence be suspended for a period of six months and be given a formal warning about his future conduct as a licensed driver.

6. Private Hire Driver Conduct Hearing (Reference 01-19)

The following is a Part I summary of the case.

Following introductions, the Chair outlined the procedure for the hearing. The Appellant was in attendance with his friend. It was noted that an interpreter would be assisting the Appellant during the hearing. Whilst confirming that all parties had received a copy of the paperwork, the Democratic Services Officer stated that Appendix E was missing from the agenda pack. A copy of the appendix was provided to the Appellant, who confirmed that he was happy to proceed with the hearing.

The Sub-Committee were informed that in March 2019 Thames Valley Police notified the Licensing Office that the Appellant's vehicle had been seized following an Automatic Number Plate Recognition for no insurance. There was a passenger in the vehicle and the Appellant confirmed that he was working. From records held by the Licensing Office, the last valid certificate of

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motor insurance expired on 2nd January 2019. A Member asked whether the operator was still providing the Appellant with jobs and it was confirmed that for the period 2 January 2019 to 15 March 2019 the Appellant had completed 1027 bookings. Options available were outlined and it was recommended that the Private Hire Driver licence be revoked with immediate effect.

The Appellant reminded Members that he had been a licensed driver for over 17 years during which period he had had an exemplary record. Difficult personal circumstances, including the death of his mother and brother had meant that he had overlooked his vehicle insurance renewal.

The Licensing Officer reminded the Appellant that it was his responsibility to ensure the licensed vehicle had the appropriate insurance, tax and MOT at all times. It was noted that although he had received a text reminder from his insurance company he had not read it.

The Licensing Officer summarised details of the case and stated that the Appellant had been a licensed driver for a number of years and therefore aware of his responsibilities regarding insurance for the vehicle.

In summary, the Appellant stated that working as a licensed driver was his livelihood and that he would struggle to find alternative employment. He apologised for what had been a genuine oversight.

Resolved - That Appellant 01-19's Private Hire Driver Licence be suspended for a period of three months and be issued with a formal warning about his future conduct as a licensed driver.

7. Private Hire Driver Conduct Hearing (Reference 02-19)

All parties were welcomed to the meeting, including the Appellant and his wife and friend and an interpreter. The procedure for the hearing was outlined. It was confirmed that all had a copy of the paperwork, including the additional paperwork submitted by the Appellant to the meeting.

Members of the Sub-Committee were informed that the Appellant had attended the Licensing Office in April 2019 to notify them that he had received a caution for the offence of 'assault by beating.' Options available were outlined and Members reminded of the relevant policy and legislative considerations.

Appellant 02-19 detailed the circumstances of the incident and the advice he was given by the police whilst in custody. Members noted the Appellant's submissions regarding his family circumstances and that his employment as a driver provided the only income to the household.

Resolved - That no further action be taken against Appellant 02-19.

Chair

(Note: The Meeting opened at 9.30 am and closed at 11.52 am)

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

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