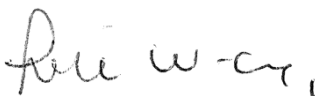


Date of issue: Monday, 30<sup>th</sup> December 2019

<b>MEETING:</b>	<b>LICENSING SUB-COMMITTEE</b> (Councillors S Parmar (Chair), M Holledge and Sharif)
<b>DATE AND TIME:</b>	THURSDAY, 9TH JANUARY, 2020 AT 10.30 AM
<b>VENUE:</b>	ENCELADUS SUITE 3 - OBSERVATORY HOUSE, 25 WINDSOR ROAD, SL1 2EL
<b>DEMOCRATIC SERVICES OFFICER: (for all enquiries)</b>	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.		
	<u>CONSTITUTIONAL MATTERS</u>		
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 14th November 2019	3 - 4	-

#### LICENSING ISSUES

4.	Exclusion of the Press and Public	-	-
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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**

*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.*

5.	Private Hire Driver Conduct Hearing (Appellant Reference 03-19)	5 - 62	All
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#### **Press and Public**

**Attendance and accessibility:** 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 any items in the Part II agenda are considered. For those hard of hearing an Induction Loop System is available.

**Filming and recording:** 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.

**Emergency procedures:** The fire alarm is a continuous siren. If the alarm sounds Immediately vacate the premises by the nearest available exit and proceed to the assembly point: The pavement of the service road outside of Westminster House, 31 Windsor Road.

## **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, 14th November, 2019.**

**Present:-** Councillors Dhaliwal (Chair), M Holledge and Sharif

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

**PART 1**

**8. Declarations of Interest**

None received.

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

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

**10. Minutes of the Last Meeting held on 24th June 2019**

**Resolved** – That the minutes of the meeting held on 24<sup>th</sup> June 2019 be approved as a correct record.

**11. Exclusion of the Press and Public**

**Resolved** – That the press and public be excluded from the remainder of the meeting as the item 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)

**12. Private Hire Driver Conduct Hearing (Appellant Reference 03-19)**

The Senior Democratic Services Officer informed Members that the Appellant had telephoned on 11<sup>th</sup> November 2019 to request an adjournment as he was currently out of the country.

The Sub-Committee decided that in order to ensure that the Appellant had the opportunity of a fair hearing with representation if required, the Private Hire Driver Conduct hearing be adjourned on this occasion. In doing so, the Sub-Committee placed on record that documentary evidence be submitted at the re-scheduled hearing evidencing the time period that the Appellant was abroad.

**Resolved** – That the Private Hire Driver Conduct hearing 03-19 be adjourned.

Chair

(Note: The Meeting opened at 10.30 am and closed at 10.50 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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