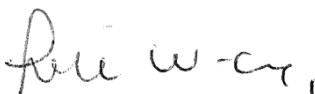


Date of issue: Wednesday, 4th March 2020

MEETING:	LICENSING SUB-COMMITTEE (Councillors S Parmar (Chair), Chaudhry and Strutton)
DATE AND TIME:	THURSDAY, 12TH MARCH, 2020 AT 10.30 AM
VENUE:	CABINET ROOM - 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>
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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 9th January 2020	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 04-19)	5 - 20	All
6.	Private Hire Driver Conduct Hearing (Appellant Reference 05-19)	21 - 110	All

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, 9th January, 2020.

Present:- Councillors S Parmar(Chair) M Holledge and Sharif.

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

PART 1

13. Declarations of Interest

None declared.

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 14th November 2019

Resolved – That the minutes of the meeting held on 11th November 2019 be approved as a correct record.

16. 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)

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

All parties were welcomed to the meeting and the procedure for the hearing was outlined. The Appellant confirmed that he had received a copy of the paperwork prior to the hearing.

The Licensing Manager detailed the reasons why the matter had been referred to the Sub-Committee and due to the seriousness of the matter, a recommendation to revoke the Appellant's private hire driver licence was being recommended. It was noted that the Appellant had been arrested on suspicion of being involved in offences of Causing Grievous Bodily Harm, Kidnap and Failure to Stop a Vehicle when required to do so. It was brought to Members attention that in April 2019, criminal proceedings against the Appellant had been closed as the victim no longer supported the prosecution.

Options available were outlined and Members were reminded of the relevant policy and legislation framework.

Licensing Sub-Committee - 09.01.20

The Appellant informed the meeting that he had no knowledge of what was about to take place in his vehicle and that he had attempted to help the victim. It was noted that apart from this incident, there had been no other complaints relating to the Appellant in relation to his work as private hire driver (PHD). It was submitted that he should continue to hold a PHD licence as he had no involvement with the incident.

Sub-Committee Members asked a number of questions, including why he had failed to stop when requested to do so by the police. The Appellant explained that the occupants in the vehicle hadn't allowed him to stop immediately and that he did so as soon as he was able to. The Appellant confirmed that he knew one of the occupants but had he known what was about to occur he wouldn't have provided him with a lift.

Following a brief summary by the Licensing Manager and Appellant, the parties were asked to leave the meeting whilst the Sub-Committee deliberated.

Resolved - That in the interests of public safety Appellant 03-19's private hire driver licence be revoked with **immediate effect** in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

Chair

(Note: The Meeting opened at 10.40 am and closed at 11.36 am)

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