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26 July 2013

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **REGULATORY COMMITTEE** will be held in the Council Chamber at these Offices on Monday 5 August 2013 at 10.00 am when the following business will be transacted.

Members of the public who require further information are asked to contact Rebecca Brough on (01304) 872304 or by e-mail at rebeccabrough@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read "Rebecca Brough", written over a white background.

Chief Executive

Regulatory Committee Membership:

Councillor B W Butcher (Chairman)
Councillor P S Le Chevalier (Vice-Chairman)
Councillor S C Manion
Councillor J M Smith
Councillor R J Thompson

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointment of Substitute Members.

3 **DECLARATION OF INTEREST**

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

Where a Member has a new or registered Disclosable Pecuniary Interest (DPI) in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Where a Member is declaring an Other Significant Interest (OSI) they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the later case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

4 **MINUTES** (Pages 6 - 8)

To confirm the attached Minutes of the meeting of the Committee held on 13 June 2013.

5 **EXCLUSION OF THE PRESS AND PUBLIC** (Pages 9 - 10)

The recommendation is attached.

MATTER WHICH THE MANAGEMENT TEAM SUGGESTS SHOULD BE CONSIDERED IN PRIVATE AS THE REPORT CONTAINS EXEMPT INFORMATION AS DEFINED WITHIN PART 1 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AS INDICATED AND IN RESPECT OF WHICH THE PROPER OFFICER CONSIDERS THAT THE PUBLIC INTEREST IN MAINTAINING THE EXEMPTION OUTWEIGHS THE PUBLIC INTEREST IN DISCLOSING THE INFORMATION

6 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR RENEWAL OF A JOINT DRIVER'S LICENCE** (Pages 11 - 40)

To consider the attached report of the Acting Licensing Team Leader.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.

- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Rebecca Brough, Team Leader - Democratic Support, telephone: (01304) 872304 or email: rebeccabrough@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

DOVER DISTRICT COUNCIL

LICENSING OF DRIVER, VEHICLES AND OPERATORS

PROCEDURE FOR HEARINGS BEFORE COMMITTEE

1. Applicant introduced to all Members and Officers Chairman
2. Applicant advised of reason for hearing and procedure to be adopted Chairman
3. Applicant asked to confirm receipt of the following documents: Legal Advisor
 - Agenda item relating to the case
 - Council's policy guidelines
 - Procedure to be adopted during the hearing
4. The District Licensing Officer's case to be summarised and issues identified. DLO
5. District Licensing Officer/representative may call witnesses (including the Licensing Officer). Each witness in turn: DLO
 - (i) gives evidence
 - (ii) may be questioned by Applicant/Applicant's representative
 - (iii) may be questioned by Members
 - (iv) may, if necessary, be re-questioned by the District Licensing Officer
6. Applicant's case to be summarised and issues identified (including whether he/she accepts the facts or wishes to correct them). Applicant/Applicant's representative
7. Applicant/Applicant's representative may call any witnesses (including the Applicant him/herself). Each witness in turn: Applicant/Applicant's representative
 - (i) gives evidence
 - (ii) may be questioned by District Licensing Officer/representative
 - (iii) may be questioned by Members
 - (iv) may, if necessary, be re-questioned by the Applicant/Applicant's representative
8. Further questions may be asked of any of the parties or any witnesses with a view to obtaining further information or clarification. Members
9. District Licensing Officer's makes final submission. DLO
10. Applicant makes final submission Applicant

- | | | |
|------|--|----------|
| 11. | Resolution to consider matter in private.
Applicant/representative, Licensing Officers, police and other witnesses, press and public leave the room. Clerk and Legal Officers may be invited to remain. | Members |
| 12. | Members consider their decision. If Members require any further information from any party or any further evidence, all parties are recalled. Any Member who has not been present during the whole of the proceedings must not participate in decision making. | Members |
| 12A. | Any legal advice given in private will be summarised to the Applicant. | Legal |
| 13. | All who have retired return and are informed of the decision. In the event of a decision for refusal, suspension or revocation of the application, the applicant is advised that he/she has the right of appeal through the Magistrates Court and then to the Crown Court. | Chairman |

NOTES

1. The opportunities afforded in this procedure for the parties, their representatives and Members to ask questions are opportunities to do just that. The person given the right to ask questions will not be allowed to use this right as an opportunity to make statements.
2. Members of the Sub-Committee are, as a general rule, expected to ask questions of the various parties in accordance with the procedure. However, circumstances may arise where it is desirable for a Member to seek immediate clarification of a point made by a witness or by a party during the course of giving evidence, answering questions being put to him by another party or, making a submission. This should be permitted by the Chairman provided that the question is relevant and is conducive to the proper conduct of the hearing. Where additional questions are permitted after the Applicant's case has been summed up, the Applicant/Applicant's Representative will always be given the right of final reply.
3. Under no circumstances must the parties or their witnesses offer Members of the Sub-Committee information in the absence of the other party. Similarly, Members must not attempt to illicit information from any party to the hearing in the absence of the other. These are essential requirements of the proper application of the rules of natural justice.
4. The Chairman may vary this procedure as circumstances require but having full regard to adhere to the rules of natural justice.

Minutes of the meeting of the **REGULATORY COMMITTEE** held at the Council Offices, Whitfield on Thursday, 13 June 2013 at 10.04 am.

Present:

Chairman: Councillor B W Butcher

Councillors: J M Smith
R J Thompson

Also Present: Vadims Kotovs (Minute No 58)
Irina Grzibovska (Minute No 58)
Builent Degirmenci (Minute No 58)
Mr D Saunders (Minute No 59)
Licence holder (Minute No 61)

Officers: Solicitor to the Council
Licensing Team Leader
Licensing Officer
Community Safety Unit Co-ordinator
Team Leader – Democratic Support
Democratic Support Officer

54 APOLOGIES

Apologies for absence were received from Councillors P S Le Chevalier and S C Manion.

55 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

56 DECLARATION OF INTEREST

There were no declarations of interest from Members.

57 MINUTES

The Minutes of the meeting of the Committee held on 16 April 2013 were approved as a correct record and signed by the Chairman.

58 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - APPLICATION FOR STREET TRADING CONSENT - MR IGOR GRZIBOVSKIS

The Committee considered an application by Mr Igor Grzibovskis to trade from a mobile catering unit in Market Street, Dover. The application was to trade every day from 9.00 am to 4.00 pm. The Licensing Team Leader advised the Committee that he had been working with the applicant to find a suitable site. Notification of the application had been sent to local residents and businesses and six letters of objection had been received in response.

Mr Kotovs, representing Mr I Grzibovski in his absence, informed the Committee that the catering unit would primarily be for the sale of candyfloss, doughnuts and sweets and it would be a service that was not currently provided in the area.

The Committee heard representations from Mr B Degirmenci who was speaking on behalf of Mr Scott, owner of Goodfillas, who had objected to the application. It was his view that the site was unsuitable and could have an adverse impact on businesses within the vicinity. Although the applicant intended to only sell sweets, doughnuts and candyfloss, Mr Degirmenci was concerned that the venture would not be financially viable if the mobile was selling only sweets, doughnuts and candyfloss and that this would lead to the range of goods being extended to include hot drinks, hot dogs and other products in the future which would take business away from shops in the area. The Licensing Team Leader confirmed with the applicant's representative that the application was for the sale of products previously mentioned and not the additional items raised by the objector.

The Committee withdrew from the meeting to consider its decision. Upon resuming the meeting it was

RESOLVED: That the application for Street Trading Consent by Mr I Grzibovski be refused in accordance with the Council's Street Trading Guidance Notes for the reason that there already exists sufficient retail outlets in the area selling goods of a similar character to those proposed to be sold, namely food.

59 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE VEHICLES OUTSIDE OF POLICY GUIDELINES - MR D SAUNDERS

The Licensing Team Leader advised the Committee that Mr D Saunders had applied to licence three Smart 'Fortwo' vehicles as private hire vehicles which he wished to bear the logo 'Cabfor1' as part of the branding of the company. Mr Saunders was intending to extend his current fleet which had previously been granted licences by the Committee at the meeting of 26 February 2013.

The vehicles and their signage were outside the Council's Hackney Carriage and Private Hire Licensing Policy 2013-2016 by reason that:

- The vehicles did not have at least four doors and were not of sufficient size to accommodate at least four passengers; and
- That the Council's current standard conditions of vehicle licence prohibited the proprietor of a private hire vehicle from displaying the word 'cab' on a private hire vehicle whether in singular or plural and whether they form part of another word or not,

Mr Saunders advised the Committee that he had been granted planning permission for new offices in Dour Street, Dover and that the yard at the site could accommodate 6 vehicles.

The Licensing Team Leader advised that there had been no complaints or other problems relating to the vehicles currently licensed.

RESOLVED: That, notwithstanding the Council's Hackney Carriage and Private Hire Licensing Policy 2013-2016, Mr D Saunders be granted private hire vehicle licences in respect of a further three Smart 'Fortwo' vehicles and that he be permitted to display signage on the vehicles which includes the logo 'Cabfor1'

60 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor R J Thompson, duly seconded and:

RESOLVED: That, under Section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of business on the grounds that the item to be considered involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Act.

61 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A DRIVER'S LICENCE

The Committee considered the report of the Licensing Team Leader on an application for the renewal of a Joint Hackney Carriage/Private Hire Drivers Licence where an Enhanced Disclosure from the Disclosure and Barring Services (DBS) had disclosed further details in respect of a previously notified police caution relating to an offence of battery that was relevant to the applicant's suitability as a fit and proper person to hold a licence.

The caution was recorded in August 2011. The Council's policy guidelines on the Relevance of Convictions to Applications for hackney carriage and private hire vehicle driver licences and private hire operator's licences would generally prevent the granting of a licence for a period of 2 years after the date of a caution for an offence involving violence.

The Licensing Team Leader informed the Committee that no request had been received from Kent Police for the applicant's licence to be suspended. The Community Safety Unit Co-ordinator was called by the Licensing Team Leader as a witness to provide further information in respect of the DBS disclosure.

In accordance with the approved procedure, the applicant was given the opportunity to present evidence concerning the circumstances surrounding the convictions. The applicant submitted a further letter to the Committee and called upon two witnesses to speak to his good character and suitability as a fit and proper person.

RESOLVED: That the application for the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence be granted, notwithstanding the Council's policy guidelines on the relevance of convictions to applications as, upon a detailed consideration of the circumstances leading to the caution, the Committee was satisfied that the applicant was a fit and proper person to hold the licence.

The meeting ended at 12.00 pm.

DOVER DISTRICT COUNCIL

REGULATORY COMMITTEE – 5 AUGUST 2013

EXCLUSION OF THE PRESS AND PUBLIC

Recommendation

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the item to be considered involves the likely disclosure of exempt information as defined in the paragraph of Part I of Schedule 12A of the Act set out below:

<u>Item Report</u>	<u>Paragraph Exempt</u>	<u>Reason</u>
Local Government (Miscellaneous Provisions) Act 1976 - Application for renewal of a Joint Drivers Licence	1	Information relating to any individual

Agenda Item No 6

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

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