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Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872452
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

18 July 2014

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **REGULATORY COMMITTEE** will be held in the Council Chamber at these Offices on Tuesday 29 July 2014 at 10.00 am when the following business will be transacted.

Members of the public who require further information are asked to contact Jemma Duffield on (01304) 872305 or by e-mail at jemmaduffield@dover.gov.uk.

Yours sincerely

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

Chief Executive

Regulatory Committee Membership:

Councillor B W Butcher (Chairman)
Councillor B Gardner
Councillor P S Le Chevalier (Vice-Chairman)
Councillor S C Manion
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 **DECLARATIONS OF INTEREST** (Page 5)

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

4 **MINUTES** (Pages 6 - 9)

To confirm the attached Minutes of the meeting of the Committee held on 28 February 2014 and 28 March 2014.

5 **EXCLUSION OF THE PRESS AND PUBLIC** (Page 10)

The recommendation is attached.

MATTERS 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 A DRIVERS LICENCE** (Pages 11 - 32)

To consider the attached report of the Licensing Enforcement Officer.

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 Jemma Duffield, Democratic Support Officer, telephone: (01304) 872305 or email: jemmaduffield@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

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|------|--|----------|
| 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.

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered 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.

Other Significant Interest (OSI)

Where a Member is declaring an 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 latter 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.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

Minutes of the meeting of the **REGULATORY COMMITTEE** held at the Council Offices, Whitfield on Friday, 28 February 2014 at 10.01 am.

Present:

Chairman: Councillor B W Butcher

Councillors: S C Manion
J M Smith
R J Thompson

Officers: Senior Solicitor
Licensing Enforcement Officer
Team Leader – Democratic Support
Democratic Support Officer

525 APOLOGIES

An apology for absence was received from Councillor P S Le Chevalier.

526 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

527 DECLARATIONS OF INTEREST

There were no declarations of interest from Members.

528 MINUTES

The Minutes of the meeting of the Committee held on 26 November 2013 were approved as a correct record and signed by the Chairman.

529 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor S C Manion, 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 the business on the grounds that the items to be considered involve the likely disclosure of exempt information as defined in the Paragraphs 1 and 2 of Schedule 12A of the Act.

530 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A JOINT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE

The Licensing Enforcement Officer informed the Committee that an application for a Joint Hackney Carriage and Private Hire Drivers Licence where an Enhanced Disclosure from the Disclosable and Barring Services (DBS) had shown a number

of previous convictions that were relevant to any decision as to the applicant's suitability as a Fit and Proper Person to hold a licence to drive a Hackney Carriage or Private Hire vehicle in the Dover District.

In accordance with the approved procedure Members offered the applicant the opportunity to present evidence concerning the circumstances surrounding the convictions. The applicant called upon a witness to speak to his good character and suitability as a fit and proper person. The applicant's last conviction of an offence was on 1 May 2008, which was over 5 years ago

The Committee withdrew to consider its decision and upon resuming the meeting the Senior Solicitor explained that she had advised the Committee in relation to Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 and had also advised on how the council's policy regarding fit and proper persons related to offences on record.

RESOLVED: That having regard to the evidence, the application for a Joint Hackney Carriage and Private Hire Drivers Licence be approved for an initial period of six months and;

- a) That the Licensing Team monitor the applicant's performance for the duration of this period and;
- b) That prior to the expiration of the initial six months the Licensing Team Leader submit a report to the Committee on the driver's conduct and that no further licence shall be granted or renewed without Regulatory Committee approval.

The meeting ended at 10.36 am.

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Minutes of the meeting of the **REGULATORY COMMITTEE** held at the Council Offices, Whitfield on Friday, 28 March 2014 at 10.03 am.

Present:

Chairman: Councillor B W Butcher

Councillors: S C Manion
J M Smith
R J Thompson

Also present: Applicant
Applicant's Solicitor

Officers: Senior Solicitor
Licensing Enforcement Officer
Democratic Support Officer

588 APOLOGIES

An apology for absence was received from Councillor P S Le Chevalier.

589 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

590 DECLARATIONS OF INTEREST

There were no declarations of interest from Members.

591 EXCLUSION OF THE PRESS AND PUBLIC

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

RESOLVED: That, under Section 10(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 be considered involves the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A of the Act.

592 SCRAP METAL DEALERS' ACT 2013 - APPLICATION FOR A SCRAP METAL DEALER'S SITE LICENCE

The Committee considered the report of the Head of Regulatory Services on an application for a Scrap Metal Dealers Licence. The application was for a site licence which authorised the licensee to carry on business at any site in the authority's area identified in the licence.

The application had been referred to the Regulatory Committee as the Basic Disclosure from Disclosure Scotland had disclosed two previous convictions that were 'relevant offences' under the new Scrap Metal Dealers Act 2013 and were therefore relevant to any decision as to the applicant's suitability to hold a licence. As part of the application, the applicant confirmed that he was a registered waste carrier and was in possession of a valid permit, issued by the Environment Agency.

In accordance with the general procedure, Members offered the applicant the opportunity to present evidence concerning the circumstances surrounding the convictions. The Members were advised that the offences, which dated from 2010, would be spent as of 2015.

The Committee withdrew to consider the application. Upon reconvening the Senior Solicitor explained that advice had been given to Members in relation to sections 1 and 3 the Scrap Metal Dealers Act 2013. In particular, she had advised in relation to s.3(2), factors which could be taken into consideration and s.3(6), which states that the authority must have regard to the guidance from the Secretary of State on determining suitability. The Senior Solicitor also stated that she advised in relation to s.3(8), which dealt with imposition of conditions if the Committee considered it to be necessary.

RESOLVED: That, in accordance with s.3(1) of the Scrap Metal Dealers Act 2013, the Committee was satisfied that the applicant was a suitable person to carry on business as a scrap metal dealer and therefore a site licence be GRANTED without conditions.

(Councillor S C Manion made a Voluntary Announcement of Other Interests stating that he was a member of the Kent County Council Planning Committee.)

The meeting ended at 10.49 am.

DOVER DISTRICT COUNCIL

REGULATORY COMMITTEE – 29 July 2014

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 items to be considered involve 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>
6	1	Information relating to any individual.

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

Agenda Item No 6

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

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