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4 May 2018

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 15 May 2018 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 be "Jemma Duffield", written over a white background.

Chief Executive

Regulatory Committee Membership:

B W Butcher (Chairman)
P S Le Chevalier (Vice-Chairman)
B Gardner
S J Jones
D P Murphy

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 4)

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

4 **MINUTES** (Pages 5 - 8)

To confirm the attached Minutes of the meeting of the Committee held on 27 March 2018.

PROCEDURE FOR HEARING (Pages 9 - 11)

The procedure for the Hearing is attached.

5 **EXCLUSION OF THE PRESS AND PUBLIC** (Page 12)

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 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE** (Pages 13 - 30)

To consider the attached report of the 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 will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- 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 Services Officer, telephone: (01304) 872305 or email: jemmaduffield@dover.gov.uk for details.

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

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 Tuesday, 27 March 2018 at 10.03 am.

Present:

Chairman: Councillor B W Butcher

Councillors: P S Le Chevalier
B Gardner
S J Jones
D P Murphy

Also present: Mr T West

Officers: Contentious and Regulatory Lawyer
Licensing Team Leader
Licensing Enforcement Officer
Democratic Services Officer

22 APOLOGIES

It was noted that there were no apologies for absence.

23 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute Members appointed.

24 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

25 MINUTES

The minutes of the meeting of the Committee held on 21 November 2017 were approved as a correct record and signed by the Chairman.

26 HIGHWAYS ACT 1980 - SECTION 115E - CRISPIN INN, 4 HIGH STREET, SANDWICH

The Committee considered the report of the Licensing Team Leader on an application by Mr Terry West of the Crispin Inn, 4 High Street, Sandwich to renew a permit to site street furniture on the highway, on the same terms as previously granted. The Licensing Team Leader advised that the Committee had granted permission in November 2016 for the siting of three tables and six chairs along the quay wall between 1 April and 31 October each year. The furniture was allowed between 10.00 and 21.00 hrs every day for 7 days per week. The Committee had also resolved that it should consider any application to renew the permit. It was confirmed that no complaints had been received during the permit period.

The applicant advised that the tables were sited on the patio at the rear of the premises. Their siting here was designed to prevent customers from sitting on the quay wall. Whilst one person had objected to the original application, she had since indicated her satisfaction with the arrangements as conditions were being adhered to.

The Committee withdrew to consider the application. Upon the resumption of the meeting, the Contentious and Regulatory Lawyer explained that she had advised the Committee in relation to the powers available to it under Section 115E of the Highways Act 1980.

RESOLVED: That, having regard to Section 115E of the Highways Act 1980, the application by Mr Terry West of the Crispin Inn, 4 High Street, Sandwich CT13 9EA for the siting of three tables and six chairs, to be located along the quay wall, be approved subject to:

- (a) The furniture only to be allowed from 1 April to 31 October;
- (b) The furniture only to be allowed between the hours of 10.00 and 21.00 each day, 7 days per week during the above period;
- (c) The furniture to be removed and cleared away by 21.00 hrs each day.

27 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor B W Butcher, 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 involved the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12A of the Act.

28 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Committee considered the report of the Licensing Team Leader on an application for a Joint Hackney Carriage and Private Hire Driver's Licence. An enhanced disclosure from the Disclosure and Barring Service had shown previous convictions that were relevant to the decision as to the applicant's suitability as a fit and proper person to hold a licence to drive a taxi 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.

Having adjourned to consider the application in accordance with the approved procedure, Members and the Contentious and Regulatory Lawyer returned to the meeting to seek clarification from the applicant on a number of matters. He provided this information.

The Committee then withdrew to consider its decision. Upon resuming, the Contentious and Regulatory Lawyer explained that she had advised the Committee in relation to the Council's policy on the relevance of convictions to applications and Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 in so far as they related to the applicant's suitability as a fit and proper person.

RESOLVED: (a) That, having regard to the evidence, the Committee considered that the applicant was a fit and proper person in accordance with

Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, and that the application for a Joint Hackney Carriage and Private Hire Licence be granted for an initial period of six months;

(b) That the Licensing Team Leader will monitor and review the applicant's performance for the duration of this period; and

(c) That, providing there are no issues during the initial six months, the licence will be granted for a further six months.

29 ORDER OF BUSINESS

The Chairman proposed that the order of business be varied to allow Agenda Item 9 to be considered before Agenda Item 8.

RESOLVED: That, in accordance with Council Procedure Rule 14, the order of business be varied in order to consider Agenda Item 9 before Agenda Item 8.

30 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - TO CONSIDER THE SUITABILITY OF A LICENSED DRIVER AS A FIT AND PROPER PERSON

The Committee considered the report of the Licensing Team Leader in respect of a driver in possession of a Hackney Carriage and Private Hire Driver's Licence and his suitability as a fit and proper person.

In accordance with the approved procedure, Members offered the applicant the opportunity to present evidence concerning the circumstances surrounding the convictions.

The Committee then withdrew to consider its decision. Upon resuming, the Contentious and Regulatory Lawyer explained that she had advised the Committee in relation to the Council's policy on the relevance of convictions to applications and Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 in so far as they related to the applicant's suitability as a fit and proper person.

RESOLVED: That, having regard to the evidence, the Committee considered that the applicant was a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, and that his Hackney Carriage and Private Hire Driver's Licence would, therefore, continue.

31 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - TO CONSIDER THE SUITABILITY OF A LICENSED DRIVER AS A FIT AND PROPER PERSON

The Committee considered the report of the Licensing Team Leader in respect of a driver in possession of a Hackney Carriage and Private Hire Driver's Licence and his suitability as a fit and proper person.

The driver was not present at the meeting and did not send a representative.

The Committee withdrew to consider its decision. Upon resuming, the Contentious and Regulatory Lawyer explained that she had advised the Committee in relation to the Council's policy on the relevance of convictions to applications and Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 in so far as they related to the applicant's suitability as a fit and proper person.

RESOLVED: That, having regard to the evidence, the Committee considered that the applicant was not a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, and that his Joint Hackney Carriage and Private Hire Licence should therefore be revoked.

The meeting ended at 11.18 am.

DOVER DISTRICT COUNCIL

REGULATORY COMMITTEE PROCEDURE FOR HEARINGS LICENSING OF A DRIVER, VEHICLES AND OPERATORS

INTRODUCTIONS AND PRELIMINARIES		
1	Chairman	The Chairman invites all present to introduce themselves.
2	Chairman	The Chairman advises the applicant of the reason for the Hearing and the procedure.
3	Legal Adviser	The applicant is asked to confirm receipt of: <ul style="list-style-type: none"> • the agenda • Licensing Officer's report • Council's policy guidelines • procedure for hearing • extract from the Rehabilitation of Offenders Act 1974
HEARING		
3	Licensing Officer	The Licensing Officer: <ul style="list-style-type: none"> • presents the Licensing Officer's report • summarises any issues
4	Licensing Officer	The Licensing Officer may call any witnesses. Each witness in turn: <ul style="list-style-type: none"> • will give evidence • may be questioned by the applicant or applicant's representatives • may be questioned by the Committee • may, if necessary, be re-questioned by the Licensing Officer
5	Applicant or applicant's representative	The applicant is asked to present his/her case and any particular issues (including whether the applicant accepts the facts presented or wishes to correct them).
6	Applicant or applicant's representative	The applicant or the applicant's representative may call any witnesses (including the applicant themselves). Each witness in turn: <ul style="list-style-type: none"> • will give evidence • may be questioned by the Licensing Officer • may be questioned by the Committee • may, if necessary, be re-questioned by the applicant/applicant's representative.
7	Members of the Committee	The Committee may ask further questions of any of the parties or any witnesses for the purpose of obtaining further relevant information or clarification.
8	Licensing Officer	The Licensing Officer may give their final submission.
9	Applicant or applicant's representative	The applicant/applicant's representative may give their final submission.

DETERMINATION		
10	Committee members/Legal Adviser	The Committee will withdraw to consider its determination. The Legal Adviser may be requested by the Chairman to accompany the Committee.
10	Committee members	If the Committee requires any further information from any party or any further evidence, all parties will be recalled and the meeting reconvened. Any Member of the Committee who has not been present during the whole of the proceedings must not take part in the decision making.
11	Legal Adviser	Any legal advice given to the Committee in private will be summarised to the Applicant.
12	Chairman	The decision of the Committee is given to all parties. In the event of a decision to refuse, suspend or revoke an application, the applicant is told that he/she has the right of appeal through the Magistrates Court and then to the Crown Court.

NOTES

1. The opportunities given to the parties within this procedure to ask questions should be used only for that purpose - to ask questions. The person asking the question will not be allowed to use this right as an opportunity to make statements.

2. Members of the Committee are, as a general rule, expected to ask questions of the various parties in accordance with this procedure. However circumstances may arise where it is desirable for a Member to seek immediate clarification or 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 or his/her representative will always be given the final right of reply.

3. Under no circumstances must the parties or their witnesses offer members of the Committee information in the absence of the other party. Similarly Members must not attempt to gain information from any party at 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 adhering to the rules of natural justice.

DOVER DISTRICT COUNCIL

REGULATORY COMMITTEE – 15 MAY 2018

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>
Item 6 Local Government (Miscellaneous Provisions) Act 1976 – Application for a Hackney Carriage & Private Hire Driver’s Licence	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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