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6 September 2019

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **REGULATORY COMMITTEE** will be held in the Council Chamber - Dover District Council on Tuesday 17 September 2019 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 democraticservices@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to be "N. Smith", written over a white background.

Chief Executive

Regulatory Committee Membership:

D P Murphy (Chairman)
O C de R Richardson (Vice-Chairman)
P M Brivio
S J Jones
R S Walkden

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 - 11)

To confirm the attached Minutes of the meeting of the Committee held on 16 April, 18 June and 16 July 2019.

PROCEDURE FOR HEARING (Pages 12 - 14)

The procedure for the Hearing is attached.

5 **EXCLUSION OF THE PRESS AND PUBLIC** (Page 15)

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 DRIVER'S LICENCE** (Pages 16 - 34)

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: democraticservices@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, 16 April 2019 at 10.05 am.

Present:

Chairman: Councillor B W Butcher

Councillors: P M Brivio
B Gardner
D P Murphy

Officers: Head of Governance
Licensing Team Leader
Democratic Services Officer

38 APOLOGIES

There were no apologies for absence received from Members.

39 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute Members appointed.

40 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

41 MINUTES

The Minutes of the meeting of the Committee held on 12 March 2019 were approved as a correct record and signed by the Chairman.

42 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE VEHICLE OUTSIDE OF POLICY GUIDELINES

The Licensing Team Leader informed the Committee that Mr Adrian Bamblett had applied for permission to licence a Vauxhall Zafira (LY09 HMU) as a Private Hire Vehicle. The Committee was asked to consider the application as the vehicle was outside of the current vehicle age policy, being registered on 19 August 2009. The mileage at the time the application was made was 103,777 miles.

The applicant had been contacted prior to the hearing and was advised that the vehicle would need to be presented to the committee in order for it to be inspected. The policy stated that applicants should show sufficient reason for the Council to deviate from the policy.

Members were advised that the applicant had failed to attend the Hearing and there was no vehicle present to inspect. Members were required to be satisfied that the condition of the vehicle was of a standard to be suitable as a private hire vehicle. As a result of the applicant's non-attendance Members were unable to find sufficient reason to deviate from the policy.

RESOLVED: That, in the absence of the applicant and the vehicle at the Hearing, the application to licence a Vauxhall Zafira (LY09 HMU) as a private

hire vehicle be refused by reason that there was not sufficient evidence to deviate from the policy.

The meeting ended at 10.10 am.

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Minutes of the meeting of the **REGULATORY COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 18 June 2019 at 10.00 am.

Present:

Chairman: Councillor D P Murphy

Councillors: S H Beer (as substitute for Councillor S J Jones)
K Mills (as substitute for Councillor P M Brivio)
O C de R Richardson (as substitute for Councillor J Rose)

Officers: Head of Governance
Licensing Team Leader
Licensing Enforcement Officer
Democratic Services Officer

1 APOLOGIES

Apologies for absence were received from Councillors P M Brivio, S J Jones, J Rose and R S Walkden.

2 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors K Mills, S H Beer and O C de R Richardson were appointed as substitutes for Councillors P M Brivio, S J Jones and J Rose respectively.

3 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

4 MINUTES

The Minutes of the meeting of the Committee held on 16 April 2019 were deferred.

5 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor S H Beer, 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 1 of Schedule 12A of the Act.

6 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A DRIVERS 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. The applicant had previously applied for a licence in 2017 which was considered and refused by the Committee.

The applicant's most recent Disclosure and Barring Service (DBS) report was still being processed and the applicant had asked for the matter to be referred to the

committee for approval, providing there were no further convictions on the new DBS report once it was received. Members were provided with the DBS report that was submitted with the 2017 application which had disclosed and confirmed convictions that were relevant to the decision as to the applicant's suitability to hold a licence to drive a taxi in the Dover district. The matter had been brought before the Committee to determine whether the applicant was a fit and proper person to hold a licence.

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 Head of Governance 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 and subject to no further convictions following receipt of the enhanced disclosure from the Disclosure and Barring Service, 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 Driver's Licence be granted for an initial period of 6 months; and
- (b) That, providing there are no complaints during the initial 6 month period the Licensing Team Leader shall grant the licence for a further 6 months.

7 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE & PRIVATE HIRE DRIVERS 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. The Licensing Team Leader had discussed the convictions with the applicant.

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 Head of Governance 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 Driver's Licence
be granted for 1 year.

The meeting ended at 10.39 am.

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Minutes of the meeting of the **REGULATORY COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 16 July 2019 at 10.00 am.

Present:

Chairman: Councillor D P Murphy

Councillors: S H Beer (as substitute for Councillor P M Brivio)
J Rose
C D Zosseder (as substitute for Councillor S J Jones)

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

8 APOLOGIES

There were apologies for absence received from Councillors P M Brivio, S J Jones and R S Walkden.

9 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors K Mills and C D Zosseder were appointed as substitutes for Councillors P M Brivio and S J Jones respectively.

10 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

11 MINUTES

The Minutes of the meetings of the Committee held on 16 April and 18 June 2019 were deferred.

12 HIGHWAYS ACT 1980 - SECTION 115E - POMEGRANATE, 94 HIGH STREET, DEAL

The Committee considered the report of the Licensing Team Leader on an application by Sarah Fisher of Pomegranate, 94 High Street, Deal. The application was for a Street Furniture permit to allow the placement of 3 tables and 6 chairs at the premises. These would be placed at the side of the premises and not at the front, as stated in the report. The applicant was seeking permission to site the furniture between 09:00 hrs to 21:00 hrs every Tuesday to Saturday inclusive.

One representation was received in respect of the application from Deal Town Council who objected to the restricted pathway access should the application be approved. The passageway was 3.3m wide in total and bollards located at either end still allowing wheelchair access. With the furniture in situ there would be 3.5ft of pathway available for pedestrians, wheelchair users and pushchairs. Members were advised that there was no statutory definition that defined a legal distance to remain available on the public highway although they should consider allowing sufficient room for wheelchairs, pushchairs and pedestrians passing.

The adjacent premises to Pomegranate, Hope and Lane, had a Street Furniture permit to site 5 tables and 10 chairs in St George's Passage. Should the application be granted the applicant offered to stagger the tables and chairs with Hope and Lane's to prevent any potential obstructions. The applicant advised that there would be two chairs to a table, as shown on the plan provided with the application.

RESOLVED: That having regard to Section 115E of the Highways Act 1980, the application by S Fisher of Pomegranate, 94 High Street, Deal for the siting of 3 tables and 6 chairs between 09:00 hrs to 21:00 hrs Tuesday – Saturday inclusive in St George's Passage (amended) be GRANTED.

13 EXCLUSION OF THE PRESS AND PUBLIC

This item was withdrawn.

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

This item was withdrawn.

The meeting ended at 10.35 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		
4	Licensing Officer	The Licensing Officer: <ul style="list-style-type: none"> • presents the Licensing Officer's report • summarises any issues
5	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
6	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).
7	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.
8	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.
9	Licensing Officer	The Licensing Officer may give their final submission.
10	Applicant or applicant's representative	The applicant/applicant's representative may give their final submission.

DETERMINATION		
11	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.
12	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.
13	Legal Adviser	Any legal advice given to the Committee in private will be summarised to the Applicant.
14	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 – 17 SEPTEMBER 2019

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>
Local Government (Miscellaneous Provisions) Act 1976 – Application for a Driver’s Licence	1	Information that relates to an individual

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

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