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12 February 2024

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 20 February 2024 at 10.00 am when the following business will be transacted.

Members of the public who require further information are asked to contact Democratic Services on (01304) 872305 or by e-mail at democraticservices@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:

G Cowan (Chairman)
J P Loffman (Vice-Chairman)
P M Brivio
D P Murphy
O C de R Richardson

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 - 7)

To confirm the attached Minutes of the meeting of the Committee held on 20 November 2023.

PROCEDURE FOR HEARING (Pages 8 - 13)

The procedures for the Hearing are attached.

5 **EXCLUSION OF THE PRESS AND PUBLIC** (Page 14)

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 15 - 28)

To consider the attached report of the Licensing Manager.

7 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A DRIVERS' LICENCE** (Pages 29 - 62)

To consider the attached report of the Licensing Manager.

8 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - REVIEW OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCE** (Pages 63 - 80)

To consider the attached report of the Licensing Manager.

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 step free access via the Council Chamber entrance and an accessible toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- In order to facilitate the broadcast of meetings there have been cameras set up in the Council Chamber that communicate with Microsoft Teams Live. This enables meetings held in the Council Chamber to be broadcast for public viewing through the Council's website.
- The meetings in which these cameras will be used include meetings of: (a) Council;

(b) Cabinet; (c) Dover Joint Transportation Advisory Board; (d) General Purposes Committee; (e) Electoral Matters Committee; (f) Governance Committee; (g) Planning Committee; (h) General Purposes Committee and (i) Overview and Scrutiny Committee. Only agenda items open to the press and public to view will be broadcast.

- These recordings will be retained for 30 days from the date of the meeting. The recordings will be uploaded to YouTube as soon as practicable after the day of the meeting. In normal circumstances this would be within 2 working days of the meeting. However, there may be circumstances where it will take longer. The recordings can be viewed on the Council's YouTube Channel - [Council meetings - YouTube](#)
- 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.
- Members of the Regulatory Committee may receive confidential information relating to criminal offence personal data as part of an exempt or confidential item of business on the agenda. It is each Member's responsibility to ensure that this information is handled securely and confidentially as required under data protection legislation. This information must only be retained for as long as necessary and when no longer required disposed of via a shredder or the Council's secure disposal arrangements.

For further information about how this information should be processed, please view the Council's Data Protection Policy and Appropriate Policy Document at www.dover.gov.uk/Corporate-Information/PDF/Data-Protection-Policy.pdf
- 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 Democratic Services, democraticservices@dover.gov.uk, 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 Monday, 20 November 2023 at 10.00 am.

Present:

Chairman: Councillor G Cowan

Councillors: J P Loffman
P M Brivio
M P Porter (as substitute for Councillor D P Murphy)
O C de R Richardson

Officers: Principal Lawyer - Litigation and Regulatory
Licensing Manager
Licensing Officer
Democratic Services Officer

Also Present: Applicant (Minute No.24)
Supporting Person (Minute No.24)
Supporting Person (Minute No.24)

19 APOLOGIES

An apology for absence was received from Councillor D P Murphy.

20 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor M P Porter was appointed substitute for Councillor D P Murphy.

21 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

22 MINUTES

The Minutes of the meetings of the Regulatory Committee held on 15 September and 19 September 2023 (as published as a supplement to the agenda) were approved as a correct record for signing by the Chairman.

23 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor P M Brivio, 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.

24 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A DRIVERS' LICENCE

The Committee considered the report of the Licensing Manager on an application for a Joint Hackney Carriage and Private Hire Driver's Licence. The Enhanced

Disclosure received from the Disclosure and Barring Service (DBS) had shown no convictions. The DBS check may not provide a complete picture of an individual's record where there had been periods living or working overseas and therefore, the application was referred to the Committee to determine whether the applicant was a fit and proper person to hold such a licence within the Dover district, in light of the length of time the applicant had lived in the UK and being unable to provide a certificate of good conduct from the relevant Embassy.

The Committee heard from the applicant and the proprietor of a Dover district taxi firm. The applicant explained the reasons for being unable to go to the relevant embassy for a certificate of good conduct. The applicant had taken the practical test and had passed, and the Licensing Manager confirmed that the Licensing team had seen the applicant's 2022 driving licence. It was explained that if the licence were to be granted the taxi firm, who had provided a character reference in the agenda papers, would add the applicant to its fleet insurance and although it would be expensive, they considered the applicant to be hard working and would not regret them being part of the team.

The Committee withdrew to consider its decision and upon resuming the Principal Lawyer – Litigation and Regulatory explained that each application was considered on its own merits, and the Committee had the discretion to depart from the Council's policy and in doing so would be exceptional and must be justified. The Lawyer advised that the Committee had regard to the references provided on the applicant's behalf and that the applicant's adult years had been spent in the UK and in respect of which, had a satisfactory DBS. The Committee had taken into account the statutory taxi and private hire vehicle standards which stated

"It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant."

RESOLVED: That having considered the circumstances the Regulatory Committee considers the applicant is a Fit and Proper Person and GRANTS the application for a Joint Hackney Carriage and Private Hire Drivers Licence for the period of 3 years as applied for.

25 RE-ADMITTANCE OF THE PRESS AND PUBLIC

It was moved by Councillor O C de R Richardson, duly seconded by Councillor J P Loffman and

RESOLVED: That the press and public be readmitted to the meeting for the remaining items of business.

26 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - APPLICATION FOR STREET TRADING CONSENT

This item was withdrawn.

27 FEES AND CHARGES 2024 - 2025

The Committee received the Fees and Charges 2024/25 report of the Strategic Director (Corporate and Regulatory) which set out the fees and charges for the financial year 2024/25 relevant to the Regulatory Committee.

- RESOLVED:
- (a) That the Regulatory Committee approve the Fees and Charges for 2024/25 as set out in Appendix 3.3 and 3.4 of the report.
 - (b) That Members approve the general principle that fees are set at an appropriate inclusive level, irrespective of VAT status, and that the VAT element within the overall fee level is then determined.
 - (c) That Members approve the general principle that, unless the fee is set by statute, licensing fees will be set on a cost recovery basis.
 - (d) That the Strategic Director (Corporate and Regulatory) is authorised to adopt fees at, or close to government directed levels without the need for further reporting, in cases where the Council is awaiting Government guidance, and it has not been possible to set a fee level at this stage.
 - (e) That the Strategic Director (Corporate and Regulatory) be authorised in consultation with the Strategic Director (Finance and Housing) to make minor adjustments to the fees and charges as necessary.

The meeting ended at 10.28 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 PROCEDURE FOR HEARINGS LICENSING OF A DRIVER, VEHICLES AND OPERATORS

REVIEWS

INTRODUCTIONS AND PRELIMINARIES		
1	Chairman	The Chairman invites all present to introduce themselves.
2	Chairman	The Chairman advises the Licence holder of the reason for the Hearing and the procedure.
3	Legal Adviser	The Licence holder 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 (where applicable)
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 licence holder or licence holder's representatives • may be questioned by the Committee • may, if necessary, be re-questioned by the Licensing Officer
6	Licence holder or Licence holder's representative	The Licence holder is asked to present his/her case and any particular issues (including whether the licence holder accepts the facts presented or wishes to correct them).
7	Licence holder or Licence holder's representative	The Licence holder or the Licence holder representative may call any witnesses (including the Licence holder 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 Licence holder or his/her 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	Licence holder or Licence holder's representative	The Licence holder or their 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 Licence holder.
14	Chairman	The decision of the Committee is given to all parties. In the event of a decision to suspend or revoke a licence, the Licence holder 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 – 20 FEBRUARY 2024

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>
No. 6 Local Government (Miscellaneous Provisions) Act 1976 – Application for a Drivers’ Licence	1	Information relating to an individual
No. 7 Local Government (Miscellaneous Provisions) Act 1976 – Application for a Drivers’ Licence	1	Information relating to an individual
No. 8 Local Government (Miscellaneous Provisions) Act 1976 – Review of a Joint Hackney Carriage/Private Hire Drivers’ Licence	1	Information relating 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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Agenda Item No 7

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