



Date: **4 June 2018**
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LICENSING BOARD

12 JUNE 2018

A meeting of the Licensing Board will be held at **10.00 am on Tuesday, 12 June 2018** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillor L Potts (Chairman); Councillors: Dellar (Vice-Chairman), Brimm, Connor, K Coleman-Cooke, Crow-Brown, Curran, Dennis, J Fairbrass, Johnston, R Potts, Rogers, M Saunders and Tomlinson

A G E N D A

Item

No

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

'To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest Form attached at the back of this Agenda. If a Member declares an interest, they should complete that form and hand it to the Officer clerking the meeting and then take the prescribed course of action.'

3. **MINUTES OF PREVIOUS MEETING** (Pages 3 - 6)

To approve the Minutes of the Licensing Board meeting held on 37 March 2018, copy attached.

4. **LICENSING SUB-COMMITTEE MINUTES**

To approve the minutes of Licensing Sub-Committee meetings, copies attached.

4a **LICENSING SUB COMMITTEE 8/5/18** (Pages 7 - 8)

4b **LICENSING SUB COMMITTEE 22/5/18** (Pages 9 - 10)

5. **EXCLUSION OF PUBLIC AND PRESS** (Pages 11 - 14)

6. **GRANT OF LICENCE TO DRIVE PRIVATE HIRE VEHICLES** (Pages 15 - 16)

Declaration of Interests Form

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Public Document Pack Agenda Item 3

LICENSING BOARD

Minutes of the meeting held on 27 March 2018 at 10.00 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor L Potts (Chairman); Councillors Dellar, Connor, K Coleman-Cooke, Crow-Brown, Curran, J Fairbrass, Johnston, Matterface, R Potts, Rogers, M Saunders and Tomlinson

In Attendance: Councillor L Fairbrass

397. APOLOGIES FOR ABSENCE

There were no apologies made at the meeting.

398. DECLARATIONS OF INTEREST

There were no declarations of interest.

399. MINUTES OF PREVIOUS MEETING

Councillor Crow-Brown proposed, Councillor J. Fairbrass seconded and Members agreed the Board minutes as a correct record of the meeting held on 4 January 2018.

400. LICENSING SUB-COMMITTEE MINUTES

Councillor Crow-Brown proposed, Councillor J. Fairbrass seconded and Members agreed the sub-committee minutes as a correct record of the meeting held on 30 January 2018.

401. REPORT ON PROSECUTIONS, APPEALS AND LICENSING UPDATE

Jane Bennett, Licensing Team Leader introduced the item for discussion and advised the meeting that at the time of writing the report, officers did not have the information regarding the court hearing date for an appeal against the Licensing Sub Committee decision made on 21 November 2017.

That information was now available as the hearing date for the case had been set for 12.00 pm on 1st May 2018 at the Canterbury Magistrates' Court.

Members noted the report.

402. EXCLUSION OF PUBLIC AND PRESS

Councillor Johnston proposed, Councillor Tomlinson seconded and the Board agreed that the public and press be excluded from the meeting for agenda item 7 as it contains exempt information as defined in Paragraphs 1 (Information relating to an individual) and 7 (Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime) of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

403. GRANT OF LICENCE TO DRIVE PRIVATE HIRE VEHICLES

Jade Malyn, Licensing Officer introduced the report and gave a brief background to the application and offered two options from which the Board could choose one.

The applicant did not wish to ask questions of the Licensing Officer.

Board Members asked questions of the Licensing Officer.

Board Members asked questions of the applicant regarding the circumstances in which he received a police caution in September 2015.

Officers did not wish to ask questions of the applicant.

Tara O'Leary, Barrister (Cornerstone Barristers, London), acting as Legal Adviser to the Board at today's meeting, advised that the Board may also wish to question why the applicant had not disclosed convictions or cautions on his application form, as required by the guidance notes on the application form provided by the Council. The Board asked questions of the applicant on this matter and the applicant was provided with an opportunity to respond.

The applicant and the council officers left the Chamber to allow Members to deliberate on the matter in confidence.

After the confidential deliberations the Board summoned the applicant and officers back into the meeting.

Councillor Crow-Brown proposed, Councillor Tomlinson seconded and Members unanimously agreed to refuse to issue the licence to the applicant on the following grounds:

- Members are not satisfied that the applicant is a fit and proper person to hold a private hire driver's licence;
- The background to this application was that on the 14th of September 2015, the applicant received a caution from Kent Police for sexual assault. The Board notes that Police cautions are issued when there is an admission of guilt and before the Board today, the applicant also admitted to committing the offence;
- The applicant applied to the Council for a licence on the 31 of August 2017 and on his application form he was asked to declare if he had ever received any convictions, including police cautions. He answered 'no' to the questions and thus failed to disclose his caution to the Council;
- The Board has had regard to the Statement of Policy about relevant convictions and Police cautions which is given to all applicants for private hire licences alongside the application form;
 - The Statement states very clearly that the Council's paramount consideration in making decisions about licences shall be ensuring safety and welfare of the public;
 - Applicants are required to declare any police cautions they may have, even if they are regarded as spent under the Rehabilitation of Offenders Act 1974;
 - The Council would normally be justified in refusing to grant an application where an applicant has failed to disclose a caution or conviction;
 - The Council would normally be justified in refusing to grant an application where an applicant has a conviction or caution for an indecency offence and cannot yet show that they have committed no further offences for a period of three to five years;
- The Board was particularly concerned about the applicant's failure to disclose his caution, given the seriousness of any allegation of sexual assault;
- Taxi drivers hold positions of considerable responsibility and the Board takes seriously any failure to disclose relevant information about the drivers' backgrounds, hence the decision to refuse the application.

Meeting concluded: 10.50 am

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Public Document Pack Agenda Item 4a

LICENSING SUB COMMITTEE

Minutes of the meeting held on 8 May 2018 at 10.00 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillors Rogers, Dennis and Connor

624. ELECTION OF CHAIRMAN

Councillor Rogers proposed, Councillor Dennis seconded and it was agreed that Councillor Connor be the Chairman.

625. APOLOGIES FOR ABSENCE

There were no apologies for absence.

626. DECLARATIONS OF INTEREST

There were no declarations of interest.

627. APPLICATION FOR PREMISES LICENCE - MARGATE MAIN SANDS, MARINE TERRACE, MARGATE

It was agreed to adjourn the hearing until 22 May 2018 at 10.30am:

“Having heard from the applicant’s representative, Mr Holder; the Police representative, Inspector Ross and noting that the Police representative only received latest papers 20 minutes before the hearing and Sub-Committee not having received the latest papers (as the updated papers were not submitted for the agenda), the Sub-Committee has decided to adjourn the meeting. This is so that the Police and the Sub-Committee have reasonable time to consider the latest papers.”

Meeting concluded : 10.20am

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Public Document Pack Agenda Item 4b

LICENSING SUB COMMITTEE

Minutes of the meeting held on 22 May 2018 at 10.30 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillors L Potts, M Saunders and J Fairbrass

In Attendance: Councillor Johnston

628. ELECTION OF CHAIRMAN

Councillor M Saunders proposed, Councillor J Fairbrass seconded and it was agreed that Councillor L Potts be the Chairman.

629. APOLOGIES FOR ABSENCE

There were no apologies for absence.

630. DECLARATIONS OF INTEREST

There were no declarations of interest.

631. APPLICATION FOR PREMISES LICENCE - MARGATE MAIN SANDS

It was agreed to adjourn the meeting.

Having heard from the applicant's representative, Mr Holder; PC Carter from Kent Police and noting that up to date papers relating to the application were not submitted to Kent Police and the Licensing Team.

Members agreed: they could refuse the application but were prepared to allow the applicant one more opportunity and a hearing date to be set with the Licensing Team.

Meeting concluded: 10.53 am

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EXCLUSION OF PUBLIC AND PRESS

Licensing Board	12 June 2018
Report Author	Committee Services Manager
Status	For Decision
Classification:	Unrestricted
Key Decision	No

Executive Summary:

This report is necessary in order to exclude the press and public from the meeting for consideration of agenda item 7. It will weigh the public interest factors for disclosure against the public interest factors for exemption and explain why the exemption factors take priority.

The report will also state the which paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) the author is using in order to exclude the press and public from the meeting.

Recommendation(s):

That the public and press be excluded from the meeting for agenda item 7 as it contains exempt information as defined in Paragraphs 1, 4 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

CORPORATE IMPLICATIONS

Financial and Value for Money	There are no direct financial implications.
Legal	As per Part 1 of Schedule 12A and Part VA of the Local Government Act 1972 (as amended).
Corporate	Thanet District Council will endeavour to keep the number of exempt reports it produces to a minimum in order to promote transparency.
Equalities Act 2010 & Public Sector Equality Duty	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

	Please indicate which aim is relevant to the report.	
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	
	Foster good relations between people who share a protected characteristic and people who do not share it.	
	There are no specific equity and equality considerations that need to be addressed in this report.	

CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	
Supporting the Workforce	
Promoting open communications	✓

1.0 Introduction and Background

- 1.1 Whilst the starting point for all public meetings of the Council is to admit the public and press, they may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted that confidential or exempt information would be disclosed. Under such circumstances, confidential or exempt information may be excluded from the public agenda. The public and press must be excluded from meetings if confidential information will be considered and disclosed, and such material must be excluded from the public agenda.

Meaning of confidential information

- 1.2 Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

Exempt information – discretion to exclude public

- 1.3 Subject to Article 6 of the Human Rights Act 1998 (right to a fair trial) the public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that “exempt” information would be disclosed.

2.0 Exempt information

- 2.1 The full rules are set out in Part 1 of Schedule 12A and Part VA of the Local Government Act 1972 (as Amended).

3.0 Reason Why Agenda Item 7 is considered to be “exempt”

- 3.1 The report author has classified Agenda Item 7 as disclosing exempt information under Paragraph 1 – Information relating to an individual, Paragraph 4 - Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the

Authority and Paragraph 7 - Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

4.0 Justification/Public Interest Test

4.1 PUBLIC INTEREST FACTORS FOR DISCLOSURE

Factors suggested by the Information Commissioner as being relevant to an assessment of public interest apply to this information. Disclosure would:-

- 1. Further public understanding of the issues involved;*
- 3. Promote accountability and transparency by the Council for the decisions it takes;*

PUBLIC INTEREST FACTORS FOR EXEMPTION

Considerations which may weigh against a decision to disclose information include:

- 1. Good local government depends on good decision-making and this needs to be based on the best advice available and a full consideration of all the options without fear of premature disclosure;*
- 2. Advice should be broad based and there may be a deterrent effect on external experts or stakeholders who might be reluctant to provide advice because it might be disclosed;*
- 3. The impartiality of the officers might be undermined if advice was routinely made public as there is a risk that officials could come under political pressure not to challenge ideas in the formulation of policy, thus leading to poorer decision making;*
- 4. Members and officers also need to be able to conduct rigorous and candid risk assessments of their policies and programmes including considerations of the pros and cons without there being premature disclosure which might close off better options;*
- 6. Some aspects of Legal advice to Members may need to be taken in private as disclosure of such information would prejudice the position of Council in the event of Court proceedings taking place thereafter;*
- 7. Local Councils are obliged to adhere to legislation that include the Data Protection Act, 1998; where appropriate and failure to do so may result in litigation against Council by an aggrieved party thereby putting at risk the general public interest to protect the public purse.*

5.0 Not Excluding the Press and Public

- 5.1** There will be occasions when the meeting may decline to exclude the press and public from the meeting. If that occurs it does not simply mean that those members of the press and public who are present are allowed to stay for the discussion of the item(s). Declining to exclude the press and public would also mean that the press and public are allowed access to the actual report contained within the confidential part of the agenda (what Democratic Services refer to as the “pink pages”).
- 5.2** Members may wish to note that if a committee member is of the view that it is possible that the recommendation in this report may not be approved at the meeting, they should let Democratic Services know (as soon as they have read the agenda papers before the meeting); in order that spare copies are made available ready to be distributed, if necessary, at the meeting.

Agenda Item 5

5.3 If the referred item is not exempted, Democratic Services would also make arrangements for the report to be retrospectively published on the Council's website.

6.0 Decision Making Process

6.1 If the press and public are to be excluded for the agenda item; this Committee must exercise its power to agree the recommendation.

Contact Officer:	Nicholas Hughes, Committee Services Manager
Reporting to:	Tim Howes, Director of Corporate Governance

Annex List

None	
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation

Legal	<i>Timothy Howes, Director of Corporate Governance & Monitoring Officer</i>
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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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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992

If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the

matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

What if I am unsure?

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services and Scrutiny Manager well in advance of the meeting.

DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS, SIGNIFICANT INTERESTS AND GIFTS, BENEFITS AND HOSPITALITY

MEETING.....

DATE..... AGENDA ITEM

DISCRETIONARY PECUNIARY INTEREST

SIGNIFICANT INTEREST

GIFTS, BENEFITS AND HOSPITALITY

THE NATURE OF THE INTEREST, GIFT, BENEFITS OR HOSPITALITY:

.....
.....
.....

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Democratic Services Officer when you are asked to declare any interests.