



City and County of Swansea

Notice of Meeting

You are invited to attend a Meeting of the

General Licensing Committee

At: Multi-Location Meeting - Gloucester Room, Guildhall / MS Teams

On: Friday, 12 January 2024

Time: 10.00 am

Chair: Councillor Penny Matthews

Membership:

Councillors: J P Curtice, P Downing, N Furlong, V A Holland, Y V Jardine, S Joy, P Lloyd, M W Locke, C L Philpott, B J Rowlands and L V Walton

Agenda

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Next Meeting: Friday, 9 February 2024 at 10.00 am

Huw Evans

Huw Evans
Head of Democratic Services
Monday, 8 January 2024

Contact: Democratic Services - Tel: (01792) 636923

Agenda Item 3



City and County of Swansea

Minutes of the **General Licensing Committee**

Multi-Location Meeting - Gloucester Room, Guildhall / MS

Teams

Friday, 17 November 2023 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)

J P Curtice
V A Holland
B J Rowlands

Councillor(s)

P Downing
S Joy
L V Walton

Councillor(s)

N Furlong
P Lloyd

Officer(s)

Lynda Anthony
Richard Jenkins
Adrian Jeremiah
Samantha Woon

Service Manager
Operational Lead - Taxis
Associate Lawyer
Democratic Services Officer

Apologies for Absence

Councillor(s): M W Locke and C L Philpott

29 Disclosures of Personal and Prejudicial Interest.

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

30 Minutes.

Resolved that the Minutes of the General Licensing Committee held on 6 October 2023 be agreed as a correct record.

31 Exclusion of the Public.

The Committee was requested to exclude the public from the meeting during the consideration of the items of business identified in the recommendations to the report on the grounds that it involved the likely disclosure of exempt information as set out in the exclusion paragraph of 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007, relevant to the item of business as set out in the report.

The Committee considered the Public Interest Test in deciding to exclude the public from the meeting for the items of business where the Public Interest Test was relevant, as set out in the report.

Resolved that the public be excluded for the following items of business.

(Closed Session)

32 Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 - Application for the Grant of a Hackney Carriage and Private Hire Driver's Licence - HG.

The Service Manager detailed the background in respect of HG.

Members asked questions of the Officers who responded accordingly.

HG explained the circumstances relating to the matter and answered Members questions.

Resolved that HG's application for the Grant of a Hackney Carriage and Private Hire Driver's Licence be approved.

33 Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 - Renewal of Restricted Hackney Carriage and Private Hire Driver's Licence - AMB.

The Service Manager detailed the background in respect of AMB.

Members asked questions of the Officers who responded accordingly.

AMB explained the circumstances relating to the matter and answered Members questions.

The Lawyer advising the Committee read out two character references in support of AMB's application.

Resolved that:

- 1) AMB be issued with a warning letter regarding future conduct.
- 2) AMB's application for the Renewal of a Restricted Hackney Carriage and Private Hire Driver's licence be approved.

The meeting ended at 10.44 am

Chair

Agenda Item 4



Report of the Licensing and Food & Safety Manager General Licensing Committee - 12 January 2024

Proposed Procedure for Applicants unable to provide Letters of Good Conduct

1.0 Purpose of the Report

- 1.1 That Members consider authorising Licensing Officers to approve hackney carriage and private hire driver applications, in certain circumstances where the applicant is unable to supply a letter of good conduct to support their application.

2.0 Background

- 2.1 Members will be aware the Council has adopted guidance on determining the suitability of applicants and licensees in the taxi and private hire trades and where applicants that have, from the age of 10 years, spent six continuous months or more living outside the United Kingdom or previous residence, evidence of a criminal record check from the Country/Countries covering the relevant periods should be required.
- 2.2 In the UK, a person becomes a refugee when the government agrees that an individual, who has applied for asylum meets the definition in the refugee Convention. They will “recognise” that person as a refugee and issue them with refugee status documentation.
- 2.3 Once refugee status has been provided, a person cannot travel to their country of origin and/or the country from which they sought refuge or identify their location to those countries as this would put them at risk.

3.0 Current Procedure

- 3.1 Currently, for any application, where an applicant is unable to provide an equivalent DBS check or letter of good conduct from their country of

birth, or previous country of residence, due to refugee status, their application is reported to Members for determination.

4.0 Matters for consideration

4.1 The number of applications referred for consideration by the General Licensing Committee are increasing year by year, due to an increase in applications from applicants from overseas. A large proportion of these applications are received from those with refugee status, where they are unable to obtain documents from their country of birth, or where they have lived for more than 6 months.

4.2 Members are requested to consider the proposal that officers are authorised to approve hackney carriage and private hire driver applications, in certain circumstances, where the applicant is unable to supply a letter of good conduct to support their application.

4.3 The current DBS procedure requires applicants to provide a 5 year address history in order for the relevant checks to be completed. This is clearly considered to be a sufficient period for an individual to be assessed.

4.4 On that basis it is proposed that:

- i) applications from applicants who have been resident in the UK for a period of 5 years or longer and are unable to provide the relevant documentation from their country of birth and/or countries where they have lived for more than 6 months are determined by officers; and
- ii) applications from applicants who have been resident in the UK for less than 5 years and are unable to provide the relevant documentation from their country of birth and/or countries where they have lived for more than 6 months, or where there are any concerns in respect of the application, are referred to General Licensing Committee for determination.

4.5 This approach will assist in reducing the time it takes for some applications to be determined and only those applications where an

applicant has been resident in the UK for less than 5 years will be referred to the General Licensing Committee.

5.0 Recommendation

It is recommended that:

5.1 Members consider the proposal to amend the current procedure for applicants who are unable to obtain an equivalent enhanced DBS and or a certificate of good conduct from their country of birth or where they have resided for more than 6 months outside of the UK as follows:

- i) applications from applicants who have been resident in the UK for a period of 5 years or longer and are unable to provide the relevant documentation from their country of birth and/or countries where they have lived for more than 6 months are determined by officers and
- ii) applications from applicants who have been resident in the UK for less than 5 years and are unable to provide the relevant documentation from their country of birth and/or countries where they have lived for more than 6 months, or there are any concerns in respect of the application, are referred to General Licensing Committee for determination.

The Licensing Committee's instructions are requested.

Background Papers:	None
Contact Officer:	Richard Jenkins
Extension:	5600
Legal Contact:	Aled Gruffydd

Agenda Item 5



Report of the Chief Legal Officer

General Licensing Committee – 12 January 2024

Exclusion of the Public

Purpose:	To consider whether the Public should be excluded from the following items of business.	
Policy Framework:	None.	
Consultation:	Legal.	
Recommendation(s):	It is recommended that:	
1)	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	Item No's.	Relevant Paragraphs in Schedule 12A
	6	12 & 13
	7	12, 13 & 14
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Tracey Meredith – Chief Legal Officer (Monitoring Officer)	

1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

2. Exclusion of the Public / Public Interest Test

- 2.1 In order to comply with the above mentioned legislation, Cabinet will be requested to exclude the public from the meeting during consideration of the

item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

3. Financial Implications

- 3.1 There are no financial implications associated with this report.

4. Legal Implications

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
 - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
 - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
 - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

Background Papers: None.

Appendices: Appendix A – Public Interest Test.

Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
12	Information relating to a particular individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. Their view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
13	Information which is likely to reveal the identity of an individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. Their view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
14	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. Their view on the public interest test was that:</p> <p>a) Whilst they were mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</p> <p>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

No.	Relevant Paragraphs in Schedule 12A
15	<p>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.</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. Their view on the public interest test was that whilst they are mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them they were satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
16	<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>
	<p>No public interest test.</p>
17	<p>Information which reveals that the authority proposes:</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) To make an order or direction under any enactment.</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
18	<p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

Agenda Item 6

By virtue of paragraph(s) 12, 13 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 12, 13 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

Agenda Item 7

By virtue of paragraph(s) 12, 13 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 12, 13 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 12, 13 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted