

# CITY AND COUNTY OF SWANSEA

## NOTICE OF MEETING

You are invited to attend a Meeting of the

## GENERAL LICENSING COMMITTEE

**At:** Committee Room 1 - Civic Centre

**On:** Friday, 30 May 2014

**Time:** 10.00 am

## AGENDA

	Page No.
<b>1 Apologies for Absence.</b>	
<b>2 Disclosures of Personal and Prejudicial Interest.</b>	<b>1 - 2</b>
<b>3 Minutes:</b> To approve and sign as a correct record the minutes of:  General Licensing Committee – 25 April, 2014; and General Licensing Committee – 8 May, 2014.	<b>3 - 7</b>
<b>4 Local Government (Miscellaneous Provisions) Act 1976 - Application to Licence a Restricted Private Hire Vehicle, Ford Galaxy, Registration Mark NC53 ONR - Mr Lee Jones.</b>	<b>8 - 12</b>
<b>5 Town Police Clauses Act 1847 - Application to Substitute a Hackney Carriage Vehicle - Skoda Rapid, Registration Mark YN63 YSS - Mr Vladimirs Sidorenko.</b>	<b>13 - 15</b>
<b>6 Local Government (Miscellaneous Provisions) Act 1976 - Application to Licence a Restricted Private Hire Vehicle, Hummer H2, Registration Mark W9 HUM - Mr Andrew Smith.</b>	<b>16 - 20</b>
<b>7 Exclusion of the Public.</b>	<b>21 - 24</b>
<b>8 Equality Act 2010 - Passengers in Wheelchairs - Request for an Exemption Certificate - MS.</b>	<b>25 - 26</b>
<b>9 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence 1125 - BL.</b>	<b>27 - 47</b>

- 10 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver Licence - PRH. 48 - 53
- 11 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Restricted Hackney Carriage and Private Hire Driver Licence - HJ. 54 - 57



**Patrick Arran**  
**Head of Legal, Democratic Services & Procurement**  
**Friday, 23 May 2014**

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**Contact: Democratic Services - Tel: (01792) 637292**

## GENERAL LICENSING COMMITTEE (12)

### Councillors

#### Labour Councillors: 8

David W Cole	Paul Lloyd
Phil Downing ( <b>Vice Chair</b> )	Penny M Matthews ( <b>Chair</b> )
Andrea S Lewis	Hazel M Morris
Clive E Lloyd	Byron G Owen

#### Liberal Democrat Councillors: 2

C L Philpott	T Huw Rees
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#### Independent Councillor: 1

Keith E Marsh	
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#### Conservative Councillor: 1

Anthony C S Colburn	
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### Others:

Lynda Anthony	Divisional Licensing Officer 4 Copies
Paula Livingstone	Team Leader, Housing and Public Health
Lyndsay Thomas	Legal
Catherine Swain	Group Leader, Transportation
Police	
Public Relations Office	
Fire Service	
Democratic Services	
Archives	

**Total Copies needed – 28**

# Agenda Item 2

## Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

### Councillors

**Councillors Interests are made** in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

**NOTE:** You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
  - i) Disclose orally both the interest concerned and the existence of the dispensation; and
  - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- a) Details of the prejudicial interest;
- b) Details of the business to which the prejudicial interest relates;
- c) Details of, and the date on which, the dispensation was granted; and
- d) Your signature

## **Officers**

### **Financial Interests**

1. If an Officer has a financial interest in any matter which arises for decision at any meeting to which the Officer is reporting or at which the Officer is in attendance involving any member of the Council and /or any third party the Officer shall declare an interest in that matter and take no part in the consideration or determination of the matter and shall withdraw from the meeting while that matter is considered. Any such declaration made in a meeting of a constitutional body shall be recorded in the minutes of that meeting. No Officer shall make a report to a meeting for a decision to be made on any matter in which s/he has a financial interest.
2. A "financial interest" is defined as any interest affecting the financial position of the Officer, either to his/her benefit or to his/her detriment. It also includes an interest on the same basis for any member of the Officers family or a close friend and any company firm or business from which an Officer or a member of his/her family receives any remuneration. There is no financial interest for an Officer where a decision on a report affects all of the Officers of the Council or all of the officers in a Department or Service.

# Agenda Item 3

## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COMMITTEE ROOM 1, CIVIC CENTRE, SWANSEA. ON  
FRIDAY, 25 APRIL 2014 AT 10.00 AM

**PRESENT:** Councillor P M Matthews (Chair) presided

<b>Councillor(s)</b>	<b>Councillor(s)</b>	<b>Councillor(s)</b>
A C S Colburn	P Lloyd	T H Rees
P Downing	K E Marsh	A S Lewis
R D Lewis	B G Owen	H M Morris
C E Lloyd		

**Officers:**

L Anthony	-	Divisional Licensing Officer
L Thomas	-	Lawyer
R Jenkins	-	Licensing Officer
S Woon	-	Democratic Services Officer

132 **APOLOGIES FOR ABSENCE.**

An apology for absence was received from Councillor D W Cole.

133 **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.

134 **MINUTES.**

**RESOLVED** that the minutes of the General Licensing Committee held on Friday, 28 March, 2014, be approved as a correct record.

135 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 -  
APPLICATION TO SUBSTITUTE A PRIVATE HIRE VEHICLE, FORD MONDEO,  
REGISTRATION MARK BF08 XMR - MR DAVID HANCOCK.**

Members inspected the vehicle.

The Divisional Licensing Officer advised that an application to substitute a vehicle on an existing private hire vehicle licence had been received from Mr David Hancock. The vehicle was a white Ford Mondeo, Registration Mark BF08 XMR and is capable of carrying 4 passengers.

Members noted the background, relevant issues in relation to Hackney Carriage vehicles, Department for Transport - Taxi and Private Hire Licensing; Best Practice Guidance; March 2010 and legislation relating to the licensing of private hire vehicles.

Members asked questions of the Officer who responded accordingly.

Members asked questions of Mr David Hancock who responded accordingly.

**RESOLVED** that the application made by Mr. David Hancock to substitute the white Ford Mondeo, Registration Mark BF08 XMR onto the private hire vehicle licence 4280 which is renewed on merit **BE APPROVED**.

136 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A PRIVATE HIRE VEHICLE, FORD MONDEO, REGISTRATION MARK YS10 BXR - MR DAVID HANCOCK.**

Members inspected the vehicle.

The Divisional Licensing Officer advised that an application to licence a private hire vehicle had been received from Mr David Hancock. The vehicle was a white Ford Mondeo, Registration Mark YS10 BXR and is capable of carrying 4 passengers.

Members noted the background, relevant issues in relation to Hackney Carriage vehicles, Department for Transport - Taxi and Private Hire Licensing; Best Practice Guidance; March 2010 and legislation relating to the licensing of private hire vehicles.

**RESOLVED** that the application made by Mr. David Hancock to licence a private hire vehicle Registration Mark YS10 BXR and the licence be renewed on merit **BE APPROVED**.

137 **TOWN POLICE CLAUSES ACT 1847 - APPLICATION TO SUBSTITUTE A HACKNEY CARRIAGE VEHICLE - MERCEDES C220, REGISTRATION MARK JA04 ONP - MR JASON CARL PARSONS.**

Members inspected the vehicle.

The Divisional Licensing Officer advised that an application to substitute a vehicle on an existing hackney carriage licence had been received from Mr Jason Carl Parsons. The vehicle was a black Mercedes C220, Registration Mark JA04 ONP and is capable of carrying 4 passengers.

Members noted the background, relevant issues in relation to Hackney Carriage vehicles, Department for Transport - Taxi and Private Hire Licensing; Best Practice Guidance; March 2010; legislation relating to the licensing of hackney carriage vehicles and the previous proposal to allow the licensing of second hand hackney carriage vehicles..

**RESOLVED** that the application made by Mr. Jason Carl Parsons to substitute a black Mercedes C220, Registration Mark JA04 ONP vehicle on an existing hackney carriage licence HC 4091 **BE APPROVED**.

138 **TOWN POLICE CLAUSES ACT 1847 - APPLICATION TO SUBSTITUTE A HACKNEY CARRIAGE VEHICLE - MERCEDES VITO, REGISTRATION MARK TF07 WJV - SWANSEA MOTOR CONTRACTS LTD - MR MARK CUTAJAR.**

Members inspected the vehicle.

The Divisional Licensing Officer advised that an application to substitute a vehicle on an existing hackney carriage licence had been received from Mr Mark Cutajar of Swansea Motor Contracts Ltd. The vehicle was a black Mercedes Vito, Registration Mark TF07 WJV and is capable of carrying 8 passengers.

Members noted the background, relevant issues in relation to Hackney Carriage vehicles, Department for Transport - Taxi and Private Hire Licensing; Best Practice Guidance; March 2010; legislation relating to the licensing of hackney carriage vehicles and the previous proposal to allow the licensing of second hand hackney carriage vehicles.

**RESOLVED** that the application made by Mr. Mark Cutajar of Swansea Motor Contracts Ltd to substitute the Mercedes Vito, Registration Mark TF07 WJV onto the hackney carriage licence HC 5019 **BE APPROVED**.

139 **EXCLUSION OF THE PUBLIC.**

The Committee were requested to exclude the public from the meeting during consideration of the items of business identified in the recommendations to the report on the grounds that they involve 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 items 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.

It was **RESOLVED** that the public be excluded for the following items on the agenda.

140 **TOWN POLICE CLAUSES ACT ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE - LDG.**

The Divisional Licensing Officer outlined the background details in respect of LDG.

LDG, accompanied by his mother, explained the background details and circumstances relating to the offence and answered Members' questions.

Members asked questions of the Officer who responded accordingly.



**RESOLVED** that in considering the application made by LDG, the decision of the Committee was to **REFUSE** the application on the basis that he is LDG was not a fit and proper person to hold such a licence.

**Reason**

The Committee had serious concerns over his suitability as a taxi driver in view of the level of alcohol in his system, and especially in respect of the serious lack of judgement and professionalism, displayed in light of his employment as a bus driver at the time of the offence.

Members, having spoken to Mr Gilligan, expressed further concerns with regard to him being granted a licence to drive hackney carriage and private hire vehicles in respect of his reasoning provided and of further incidents that may occur due to his previous lack of judgement whilst holding a professional licence and further expressed concerns for the safety of the travelling public.

Members therefore felt that insufficient time that had lapsed since the reinstatement of his driving licence for a licence to be granted.

141 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT  
(MISCELLANEOUS PROVISIONS) ACT 1976 - KS.**

The Divisional Licensing Officer outlined the background details in respect of KS.

KS, accompanied by his son explained the background details and circumstances relating to the offence and answered Members' questions.

Members asked questions of the Officer who responded accordingly.

**RESOLVED** that a strong warning letter be issued to KS regarding future conduct.

The meeting ended at 11.08 am

**CHAIR**

# CITY AND COUNTY OF SWANSEA

## MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT THE CIVIC CENTRE, SWANSEA ON THURSDAY 8 MAY 2014 AT 6.05 P.M.

### PRESENT:

#### Councillor(s):

A C S Colburn  
D W Cole  
P Downing  
A S Lewis

#### Councillor(s):

C E Lloyd  
P Lloyd  
K E Marsh  
P M Matthews

#### Councillor(s):

H M Morris  
B G Owen  
C L Philpott  
T H Rees

1. **SUSPENSION OF COUNCIL PROCEDURE RULE 12 "CHAIRMAN OF MEETINGS" IN ORDER TO ALLOW THE PRESIDING MEMBER TO PRESIDE OVER THIS MEETING**

**RESOLVED** that Council Procedure Rule 12 be suspended in order to allow the Presiding Member to preside over this meeting.

**(COUNCILLOR D W W THOMAS PRESIDED)**

2. **ELECTION OF CHAIR FOR THE 2014-2015 MUNICIPAL YEAR**

**RESOLVED** that Councillor P M Matthews be elected Chair for the 2014-2015 Municipal Year.

**(COUNCILLOR P M MATTHEWS PRESIDED)**

3. **ELECTION OF VICE CHAIR FOR THE 2014-2015 MUNICIPAL YEAR**

**RESOLVED** that Councillor P Downing be elected Vice Chair for the 2014-2015 Municipal Year.

4. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

5. **DISCLOSURES OF PERSONAL & PREJUDICIAL INTERESTS**

No interests were declared.

The meeting ended at 6.07 p.m.

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**30 MAY 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**FORD GALAXY, REGISTRATION MARK NC53 ONR**  
**MR LEE JONES**

**1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence for the purposes of airport travel, executive hire and school transport has been received from Mr Lee Jones. The vehicle is a Blue Ford Galaxy Registration Mark NC53 ONR and is capable of carrying 6 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 23<sup>rd</sup> January 2004 and is therefore 10 years and 4 months old. The vehicle passed the Council's inspection on the 14<sup>th</sup> May 2014 and the mileage recorded at this time was 176,915 miles.

- 2.2 Council's current age policy states:

*“vehicles will not be accepted for licensing on the first occasion after 2 years from the date of first registration. Vehicles purchased from new will be re-licensed on merit.*

*If a vehicle when first licensed is any age up to 2 years from date of first registration it will be re-licensed on merit until it is 6 years old”.*

- 2.3 The policy also states:

*An application to licence a restricted private hire vehicle for school transport purposes will only be considered for a new contract that requires a vehicle of a certain type or design that would not be licensed as a hackney carriage or private hire vehicle. Schools transport officers will be consulted on all applications received.’*

- 2.4 School Transport officers have been consulted regarding this application and have confirmed that Mr Jones has existing school contracts, has been offered a new contract and may be offered additional contracts in the future.
- 2.5 Members are therefore being asked to consider whether the Ford Galaxy, Registration Number, NC53 ONR is suitable for licensing as a Restricted Private Hire vehicle for the purposes of airport travel, executive hire and school contracts.

- 2.6 In order to assist Members in reaching their decision the vehicle will be available for inspection at the main entrance of the Civic Centre on Friday 30<sup>th</sup> May 2014.

**3. RESTRICTED PRIVATE HIRE VEHICLES**

- 3.1 In 2008 the creation of the 'restricted private hire licence' came about as a result of a change in legislation that removed the 'contract exemption' contained in section 75 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The contract exemption previously permitted the use of a vehicle, under a contract for hire of more than seven days, to operate legally without the need for the operator or the driver of the vehicle to be licensed.
- 3.3 The restricted vehicle licence has since been issued for a number of vehicles for the purposes of school contract, airport travel and executive hire. Restricted vehicle licences were introduced in response to the change in legislation to allow those vehicles that were affected by the removal of the contract exemption, to carry on their existing business and not be adversely affected. These vehicles did not comply with this Council's policy for private hire vehicles in design or age and therefore could not be licensed as such.
- 3.4 The conditions attached to restricted vehicle licences issued ensured existing businesses could be licensed and continue with their normal operations without affecting their livelihood or creating undue expense. In particular restrictions were not applied in relation to the age or colour of the vehicles to be licensed.

**4. THE DEPARTMENT FOR TRANSPORT TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE: MARCH 2010**

- 4.1 The Department of Transport published its Best Practice Guidance in March 2010. This states:

*"It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old."*

5. **LEGISLATION RELATING TO THE LICENSING OF PRIVATE HIRE VEHICLES**

- 5.1 The powers relating to the licensing of private hire vehicles are contained in Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 which states:

**“Licensing of private hire vehicles**

48 (1) Subject to the provisions of this part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicles as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied –

- (a) that the vehicle is –
- (i) suitable in type, size and design for use as a private hire vehicle;
  - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
  - (iii) in a suitable mechanical condition;
  - (iv) safe; and
  - (v) comfortable
- (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of the Road Traffic (Consequential Provisions) Act 1988, s 4, Sch 3, para 16

and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this sub-section, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates’.
- (3) In every vehicle licence granted under this section there shall be specified—

- (a) the name and address of—
  - (i) the applicant; and
  - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
- (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
- (c) the conditions attached to the grant of the licence; and
- (d) Such other particulars as the district council consider reasonably necessary.
- (4) Every licence granted under this section shall -
  - (a) be signed by an authorised officer of the council which granted it;
  - (b) relate to not more than one private hire vehicle; and
  - (c) remain in force for such period not being longer than one year as the district council may specify in the licence.
- (5) Where a district council grant under this section a vehicle licence in respect of a private hire vehicle they shall issue a plate or disc identifying that vehicle as a private hire vehicle in respect of which a vehicle licence has been granted.
- (6) (a) Subject to the provisions of this Part of this Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the grant of the licence.
  - (b) If any person without reasonable excuse contravenes the provisions of this subsection he shall be guilty of an offence.

- (7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.

5.2 It is evident from section 48 above that the Council are not under a duty to issue a licence once an application has been made, they have discretion. Section 48(1)(a) and (b) also includes specific situations where a council must not grant a licence.

## **6. RECOMMENDATION**

It is recommended that after careful consideration of the detail of this report and hearing from Mr Jones, Members determine whether to:

- a. Grant Mr Jones a Restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration Mark NC53 ONR for the purposes of airport travel, executive hire and school contracts only and that this licence is renewed on merit. OR
- b. Refuse Mr Jones a Restricted Private Hire Vehicle licence giving reasons why it is not considered suitable under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

### **The Licensing Committee's instructions are requested.**

**Background Papers:** Licence Application  
**Contact Officer:** Richard Jenkins  
**Extension:** 5600  
**Legal Contact:** Lyndsay Thomas

# Agenda Item 5

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**30 MAY 2014**

**TOWN POLICE CLAUSES ACT 1847**  
**APPLICATION TO SUBSTITUTE A HACKNEY CARRIAGE VEHICLE**  
**SKODA RAPID, REGISTRATION MARK YN63 YSS**  
**MR VLADIMIRS SIDORENKO**

1. **INTRODUCTION**

- 1.1 An application to substitute an existing hackney carriage licence has been received from Mr Sidorenko. The vehicle is a black Skoda Rapid, Registration Mark YN63 YSS and is capable of carrying 4 passengers.

2. **BACKGROUND**

- 2.1 The existing licensed vehicle, plate number HC 4081, registration mark BJ58 WXP is a black Skoda Octavia, licensed to carry 4 passengers. This vehicle is now 5 years and 7 months old and the mileage recorded on its last inspection on the 13th March 2014 was 192,956. The licence for this vehicle expires on 31<sup>st</sup> March 2015.
- 2.2 The vehicle Mr Sidorenko wishes to substitute onto this licence is 8 months old. The vehicle passed the Council's inspection on the 2nd May 2014 and the mileage recorded at this time was 11,467 miles.
- 2.3 Mr Sidorenko has confirmed that his existing vehicle is not reliable and it is becoming very expensive to keep on the road.
- 2.4 Members are therefore asked to determine the suitability of the black Skoda Rapid, registration mark YN63 YSS for licensing as a hackney carriage vehicle in Swansea.
- 2.5 In order to assist Members in reaching their decision the vehicle will be available for inspection at the Civic Centre on Friday 30<sup>th</sup> May 2014.

3. **THE DEPARTMENT FOR TRANSPORT TAXI AND PRIVATE HIRE LICENSING: BEST PRACTICE GUIDANCE: MARCH 2010**

- 3.1 The Department for Transport published its Best Practice Guidance in March 2010. This states:

*It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not licence vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles – for*



*example, twice-yearly tests for vehicles more than five years old.*

4. **CURRENT HACKNEY CARRIAGE VEHICLE POLICY**

- 4.1 The Council's current policy in relation to hackney carriage vehicles requires that vehicles will not be accepted for licensing on the first occasion unless brand new. All vehicles will be re-licensed on merit.
- 4.2 The policy was adopted by Swansea City Council in March 1985 and by the City and County of Swansea in 1996.
- 4.3 The reasons for the adoption of the policy were:
- i. So that the local authority could be confident as to the accident history of the relevant vehicles;
  - ii. it was envisaged that if the vehicle were a new vehicle its proprietor would be more committed to maintaining higher standards of the vehicle as a result of the higher investment made.
  - iii. The policy was intended to ensure that the vehicle was not already 'tired' before it was licensed, so it was more likely to be able to withstand the rigors demanded of a hackney carriage;
- 4.4 Since the adoption of the policy the mechanical standards, interior of the vehicles and their external appearance have improved. The improvements have been of general benefit to the public and also the image of the hackney carriage trade in Swansea.
- 4.5 The Council's age policy has been challenged since it's implementation by way of Judicial Review in 1995.
- 4.6 The decision of the High Court at this time was to dismiss the application on the basis that the evidence provided showed that the policy had the full support of the hackney carriage trade in Swansea and that the policy was carefully considered, and had reasonable objectives to protect the safety of hackney carriages and the comfort and convenience of those who travel in them.

5. **PREVIOUS PROPOSAL TO ALLOW THE LICENSING OF SECOND HAND HACKNEY CARRIAGE VEHICLES**

- 5.1 In December 2008 the Licensing Committee considered a request from a hackney carriage proprietor to allow licence holders to purchase second hand vehicles to replace vehicles that have been damaged and can no longer be used as a licensed vehicle as a result.

5.2 The decision of the Licensing Committee was that any individual requests would be considered on merit should they arise.

5.3 Since that decision a number of requests have been considered by Committee.

6. **RECOMMENDATION**

6.1 It is recommended that after careful consideration of the detail of this report and hearing from Mr Sidorenko, Members determine whether to:

- a) grant the application made by Mr Sidorenko to substitute the Skoda Rapid, Registration Mark YN63 YSS onto the hackney carriage vehicle licence HC 4081; or
- b) refuse the application made by Mr Sidorenko to substitute the Skoda Rapid, Registration Mark YN63 YSS onto the hackney carriage vehicle licence HC 4081 giving full reasons for this decision.

**The General Licensing Committee's instructions are requested.**

Background Papers:	Licence Application
Contact Officer:	Kath Thomas
Extension:	5600
Legal Contact:	Lyndsay Thomas

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**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**30 MAY 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**HUMMER H2, REGISTRATION MARK W9 HUM**  
**MR ANDREW SMITH**

**1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence for the purposes of executive hire has been received from Mr Andrew Smith. The vehicle is a Black Hummer H2, Registration Mark W9 HUM and is capable of carrying 5 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 1<sup>st</sup> January 2003 and is therefore 11 years and 4 months old. The vehicle passed the Council's inspection on the 8<sup>th</sup> April 2014 and the mileage recorded at this time was 48,309 miles.

- 2.2 The vehicle inspection has also confirmed that the vehicle is left hand drive.

- 2.3 Council's current age policy states:

*“vehicles will not be accepted for licensing on the first occasion after 2 years from the date of first registration. Vehicles purchased from new will be re-licensed on merit.*

*If a vehicle when first licensed is any age up to 2 years from date of first registration it will be re-licensed on merit until it is 6 years old”.*

- 2.4 In addition to this matter, the restricted private hire vehicle conditions also state;

*“All vehicles must be right hand drive and have 2 doors each side of the vehicle. All passengers shall have access to a door capable of being opened from inside the vehicle.”*

- 2.5 Members are therefore being asked to consider whether the Hummer H2, Registration Number, W9 HUM is suitable for licensing as a Restricted Private Hire vehicle for the purposes of executive hire.

- 2.6 In order to assist Members in reaching their decision the vehicle will be available for inspection at the main entrance of the Civic Centre on Friday 30<sup>th</sup> May 2014.

**3. RESTRICTED PRIVATE HIRE VEHICLES**

- 3.1 In 2008 the creation of the 'restricted private hire licence' came about as a result of a change in legislation that removed the 'contract exemption' contained in section 75 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The contract exemption previously permitted the use of a vehicle, under a contract for hire of more than seven days, to operate legally without the need for the operator or the driver of the vehicle to be licensed.
- 3.3 The restricted vehicle licence has since been issued for a number of vehicles for the purposes of school contract, airport travel and executive hire. Restricted vehicle licences were introduced in response to the change in legislation to allow those vehicles that were affected by the removal of the contract exemption, to carry on their existing business and not be adversely affected. These vehicles did not comply with this Council's policy for private hire vehicles in design or age and therefore could not be licensed as such.
- 3.4 The conditions attached to restricted vehicle licences issued ensured existing businesses could be licensed and continue with their normal operations without affecting their livelihood or creating undue expense. In particular restrictions were not applied in relation to the age or colour of the vehicles to be licensed.

**4. THE DEPARTMENT FOR TRANSPORT TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE: MARCH 2010**

- 4.1 The Department of Transport published its Best Practice Guidance in March 2010. This states:

*"It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old."*

5. **LEGISLATION RELATING TO THE LICENSING OF PRIVATE HIRE VEHICLES**

- 5.1 The powers relating to the licensing of private hire vehicles are contained in Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 which states:

**“Licensing of private hire vehicles**

48 (1) Subject to the provisions of this part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicles as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied –

- (a) that the vehicle is –
- (i) suitable in type, size and design for use as a private hire vehicle;
  - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
  - (iii) in a suitable mechanical condition;
  - (iv) safe; and
  - (v) comfortable
- (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of the Road Traffic (Consequential Provisions) Act 1988, s 4, Sch 3, para 16

and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this sub-section, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates’.
- (3) In every vehicle licence granted under this section there shall be specified—
- (a) the name and address of—

- (i) the applicant; and
  - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
- (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
- (c) the conditions attached to the grant of the licence; and
- (d) Such other particulars as the district council consider reasonably necessary.
- (4) Every licence granted under this section shall -
- (a) be signed by an authorised officer of the council which granted it;
  - (b) relate to not more than one private hire vehicle; and
  - (c) remain in force for such period not being longer than one year as the district council may specify in the licence.
- (5) Where a district council grant under this section a vehicle licence in respect of a private hire vehicle they shall issue a plate or disc identifying that vehicle as a private hire vehicle in respect of which a vehicle licence has been granted.
- (6) (a) Subject to the provisions of this Part of this Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the grant of the licence.
- (b) If any person without reasonable excuse contravenes the provisions of this subsection he shall be guilty of an offence.

- (7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.

5.2 It is evident from section 48 above that the Council are not under a duty to issue a licence once an application has been made, they have discretion. Section 48(1)(a) and (b) also includes specific situations where a council must not grant a licence.

## **6. RECOMMENDATION**

It is recommended that after careful consideration of the detail of this report and hearing from Mr Smith, Members determine whether to:

- a. Grant Mr Smith a Restricted Private Hire Vehicle licence in respect of the Hummer H2, registration Mark W9 HUM for the purpose of executive hire only and that this licence is renewed on merit. OR
- b. Refuse Mr Smith a Restricted Private Hire Vehicle licence giving reasons why it is not considered suitable under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

### **The Licensing Committee's instructions are requested.**

**Background Papers:** Licence Application  
**Contact Officer:** Richard Jenkins  
**Extension:** 5600  
**Legal Contact:** Lyndsay Thomas

# Agenda Item 7

## Report of the Head of Legal, Democratic Services & Procurement

### General Licensing Committee – 30 May 2014

#### EXCLUSION OF THE PUBLIC

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.	
<b>Policy Framework:</b>	None.	
<b>Reason for Decision:</b>	To comply with legislation.	
<b>Consultation:</b>	Legal.	
<b>Recommendation(s):</b>	It is recommended that:	
<b>1)</b>	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.	
	<b>Item No.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	8, 9, 10 and 11	12, 13 & 18
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	Patrick Arran – Head of Legal, Democratic Services and Procurement (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, **Council / Cabinet / Committee** 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

## Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
<b>12</b>	<b>Information relating to a particular individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. His 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 he 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>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. His 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 he 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>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. His view on the public interest test was that:</p> <ul style="list-style-type: none"> <li>a) Whilst he was 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</li> <li>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</li> </ul> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis he 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>
<b>15</b>	<b>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</b>

	<b>Crown and employees of, or office holders under, the authority.</b>
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. His view on the public interest test was that whilst he is mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them he was 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 he 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.
<b>16</b>	<b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b>
	No public interest test.
<b>17</b>	<b>Information which reveals that the authority proposes:</b> <b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b> <b>(b) To make an order or direction under any enactment.</b>
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. His 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 he 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.
<b>18</b>	<b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b>
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. His 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 he 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.
<b>18c</b>	The deliberations of a Standards Committee or of a sub committee of a Standards Committee established under the provisions of the Local Government Act 2000 in reaching any finding of a matter referred to it.

# Agenda Item 8

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# Agenda Item 9

By virtue of paragraph(s) 12, 13, 18 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, 18 of Schedule 12A  
of the Local Government Act 1972  
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By virtue of paragraph(s) 12, 13, 18 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 10

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# Agenda Item 11

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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