

## DINAS A SIR ABERTAWE

### HYSBYSIAD O GYFARFOD

Fe'ch gwahoddir i gyfarfod

### PWYLLGOR TRWYDDEDU

Lleoliad: Committee Room 1 - Civic Centre

Dyddiad: Dydd Gwener, 25 Gorffennaf 2014

Amser: 10.00 am

### AGENDA

Rhif y Dudalen

- |   |  |         |
|---|--|---------|
| 1 | Ymddiheuriadau am absenoldeb.  |         |
| 2 | Derbyn datgeliadau o fuddiannau personol a rhagfarnol.   | 1 - 2   |
| 3 | <b>Cofnodion:</b><br>Cymeradwyo a llofnodi cofnodion y cyfarfodydd canlynol fel cofnod cywir:<br><br>1. Y Pwyllgor Trwyddedu Cyffredinol Arbennig a gynhaliwyd ar 20 Mehefin, 2014; a'r<br>2. Pwyllgor Trwyddedu Cyffredinol a gynhaliwyd ar 27 Mehefin, 2014. | 3 - 12  |
| 4 | Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig, Mercedes E320 CDI, Rhif Cofrestru P333 TUP - Mr P. Eglitis.   | 13 - 17 |
| 5 | Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig - Ford Galaxy, Rhif Cofrestru EF52 NKU - Mr L. Jones.  | 18 - 22 |
| 6 | Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig - Volvo S60, Rhif Cofrestru FG54 WYB - Mr L. Jones.  | 23 - 27 |
| 7 | Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig - Volvo V70, Rhif Cofrestru H8 FMJ - Mr L. Jones.  | 28 - 32 |
| 8 | Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig - Ford Galaxy, Rhif Cofrestru PE03 JUT - Mr L. Jones.  | 33 - 37 |

9	Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig - Ford Galaxy, Rhif Cofrestru RE02 OBS - Mr L. Jones.	38 - 42
10	Trwyddedu cerbydau a ddyluniwyd heb olwyn sbâr.	43 - 44
11	Canlyniad yr apêl.	45
12	Gwahardd y cyhoedd.	46 - 49
13	Deddf Cyfrifoldebau Heddluoedd Trefol 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais am Drwydded Yrru Cerbydau Hacni a Hurio Preifat Gyfyngedig - VVB.	50 - 52



**Patrick Arran**  
**Pennaeth Gwasanaethau Cyfreithiol, Democrataidd a Chaffael**  
**Dydd Gwener, 18 Gorffennaf 2014**

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

## 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.

## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE SPECIAL GENERAL LICENSING COMMITTEE

HELD AT COUNCIL CHAMBER - CIVIC CENTRE ON FRIDAY, 20 JUNE  
2014 AT 10.00 AM

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

<b>Councillor(s)</b>	<b>Councillor(s)</b>	<b>Councillor(s)</b>
D W Cole	B G Owen	A S Lewis
P Downing (Vice Chair)	T H Rees	H M Morris
P Lloyd		

**Officers:**

Y Lewis	–	Licensing Officer
R Jenkins	–	Licensing Officer
L Thomas	–	Senior Lawyer
S Woon	–	Democratic Services Officer

16 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors A C S Colburn, C E Lloyd, K E Marsh and C L Philpott.

17 **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.

18 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 -  
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,  
CHEVROLET BEL AIR, REGISTRATION MARK 233 UXR - MR GARY MORGAN.**

Members inspected the vehicle.

The Licensing Officer advised that an application for a restricted private hire vehicle licence had been received from Mr Morgan. The vehicle was a red and white Chevrolet Bel Air, Registration Mark 233 UXR and capable of carrying 5 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 Morgan who responded accordingly.

**RESOLVED** that the application made by Mr Morgan for a restricted private hire vehicle licence in respect of the red and white Chevrolet Bel Air, Registration Mark 233 UXR for the purpose of executive hire only be **REFUSED**.

**Reason for Decision**

The Committee were not satisfied the vehicle was suitable in type size and design for use as a private hire vehicle and / or safe as the vehicle was left hand drive and the seats were not fitted with safety belts.

19 **TOWN POLICE CLAUSES ACT 1847 - APPLICATION TO SUBSTITUTE A HACKNEY CARRIAGE VEHICLE - MERCEDES C220, REGISTRATION MARK LN10 YYR - MR SHAFIQUE MEAH.**

Members inspected the vehicle.

The Licensing Officer advised that an application to substitute a vehicle on an existing private hire vehicle licence had been received from Mr Meah. The vehicle was a black Mercedes Benz, Registration Mark LC10 YYR 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 Meah who responded accordingly.

**RESOLVED** that the application made by Mr Meah to substitute the black Mercedes Benz, Registration Mark LC10 YYR onto the hackney carriage vehicle licence HC 4023 **BE APPROVED**.

20 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO SUBSTITUTE A PRIVATE HIRE VEHICLE - SKODA OCTAVIA ESTATE, REGISTRATION MARK CP10 GXT - MR MICHAEL GREGORY MURPHY.**

Members inspected the vehicle.

The Licensing Officer advised that an application to substitute a private hire vehicle licence had been received from Mr Murphy. The vehicle was a white Skoda Octavia Estate, Registration Mark CP10 GXT 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.

Mr Murphy spoke in support of his application.

**RESOLVED** that the application made by Mr Murphy to substitute a private hire vehicle licence for the Skoda Octavia Estate, Registration Mark CP10 GXT onto the private hire vehicle licence 4260, be **APPROVED** and renewed on merit.

21 **REQUEST FOR AUTHORISATION TO GRANT VEHICLE APPLICATIONS OUTSIDE OF CURRENT AGE CRITERIA.**

The Licensing Officer advised that increasing numbers of applications are being reported to the General Licensing Committee for decision as they do not comply with the Council's current licensing criteria relating to the type and age of vehicles.

The Licensing Officer detailed the current position, the proposal and the recommendations.

Members' asked questions of the Officer who responded accordingly.

**RESOLVED** that Members authorise officers of the Licensing Section to grant vehicle licences in respect of vehicle applications, up to 5 years old, that do not comply with the current age criteria for licensing vehicles, subject to the vehicle passing the Council's inspection and meeting all other application criteria.

22 **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.

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

The Licensing Officer detailed the background details in respect of LW.

LW, assisted by his Mother [SW], outlined the background details and circumstances relating to the offences and answered Members' questions.

**RESOLVED** that LW's application for the grant of a hackney carriage and private hire driver's licence be **APPROVED**.

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

The Licensing Officer detailed the background details in respect of SPR.

SPR outlined the background details and circumstances relating to the offences and answered Members' questions.

Members' asked questions of SPR who responded accordingly.

**RESOLVED** that SPR's application for the grant of a hackney carriage and private hire driver's licence be **REFUSED**.

**Reason for Decision**

The Committee did not deem SPR a fit and proper person as Members had concerns over his suitability in view of the additional 3 motoring convictions since he was last before the committee in 2005. In light of the reoffending Members felt insufficient time free from convictions had elapsed since the re-instatement of his DVLA driving for a hackney carriage and private hire drivers licence to be granted.

25 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT  
(MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND  
PRIVATE HIRE DRIVER'S LICENCE - MAI.**

The Licensing Officer detailed the background details in respect of MAI.

MAI outlined the background details and circumstances relating to the offences and answered Members' questions.

**RESOLVED** that

1. MAI's application for the renewal of a hackney carriage and private hire driver's licence be **APPROVED** subject to a warning letter regarding his future conduct;
2. No further action be taken in respect of MAI's vehicle licence HC7 167.

The meeting ended at 11.10 am

**CHAIR**



# CITY AND COUNTY OF SWANSEA

## MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COMMITTEE ROOM 1, CIVIC CENTRE, SWANSEA. ON  
FRIDAY, 27 JUNE 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	K E Marsh	A S Lewis
D W Cole	B G Owen	H M Morris
P Downing (Vice Chair)	T H Rees	

### **Officers:-**

R Jenkins	–	Licensing Officer
Y Lewis	–	Licensing Officer
K Clague	–	Lawyer
S Woon	–	Democratic Services Officer

### 26 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors C E Lloyd, P Lloyd and C L Philpott.

### 27 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interest was declared:

Councillor B G Owen – Personal – minute no. Town Police Clauses Act 1847 – Local Government (Miscellaneous Provisions) Act 1976 – Hackney Carriage and Private Hire Drivers' Licence 1123 – BL – I have known the individual as I am the local councillor.

### 28 **EXCLUSION OF THE PUBLIC**

The Committee were requested to exclude the public from the meeting during consideration of the item 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 item 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.

29 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT  
(MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND  
PRIVATE HIRE DRIVER'S LICENCE 1125 - BL**

The Divisional Licensing Officer advised that BL's representatives had sought an adjournment of decision as BL's Mother was critically ill.

Mr Henson, Goldstone's Solicitors, requested that the matter be deferred due to BL's Mother being critically ill.

The Lawyer advising the Committee stated that the Committee had obtained information from BL's employer who had confirmed that BL had undertaken shifts during the week. Additionally, concern was expressed regarding the witnesses who were in attendance for the second occasion.

Mr Henson confirmed that he was not aware of the information and had not taken instruction from BL.

The Chair asked that the Committee go into private session in order to receive legal advice.

The Lawyer advising the Committee provided legal advice.

The Lawyer advising the Committee confirmed that the Committee were not satisfied that there were genuine grounds for the application. There was a lack of information provided in terms of Applicant's mother's situation and the Committee was not satisfied that the Applicant could not reasonably have attended, particularly in light of the knowledge that BL had been working that morning and yesterday. It was noted that this was the second application for a deferral. The Committee considered the Applicant's right to a fair hearing and to be heard. It was noted that the Applicant still had time to attend today and be heard. On that basis, the Committee have **RESOLVED** that the matter be dealt with today.

**OPEN SESSION**

30 **MINUTES**

**RESOLVED** that the minutes of the meeting of the General Licensing Committee held on 30 May 2014 be approved as a correct record.

31 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 -  
APPLICATION TO SUBSTITUTE A PRIVATE HIRE VEHICLE, BMW  
REGISTRATION MARK FD09 EXZ - MR D HANCOCK.**

Members inspected the vehicle.

The Licensing Officer advised that an application to substitute a vehicle on an existing private hire vehicle licence had been received from Mr Hancock. The

vehicle was a white BMW, Registration Mark FD09 EXZ 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 Hancock who responded accordingly.

**RESOLVED** that the application made by Mr Hancock to substitute a vehicle to an existing private hire vehicle licence for the BMW, Registration Mark FD09 EXZ onto the private hire vehicle licence 4090 be **APPROVED** and renewed on merit.

32 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - REQUEST TO ADVERTISE ON HACKNEY CARRIAGE VEHICLES - MR R J GREENSLADE (SWANSEA BID)**

The Divisional Licensing Officer advised that a request had been received from Mr Greenslade, Chief Executive of Swansea Business Improvement District (BID) to advertise the Big Hear of Swansea branding on hackney carriage vehicles licensed within the City and County of Swansea.

It was noted that the advertising proposed does not comply with the Council's adopted guidelines for advertising therefore a Committee decision is required.

A description of the nature of the advertisement was detailed along with the Council's existing policy in relation to hackney carriage vehicles.

Mr Greenslade provided a presentation in support of his application.

Members' asked questions of Mr Greenslade and Officers who responded accordingly.

**RESOLVED** that the request by Mr Greenslade to advertise the Big Heart of Swansea branding on hackney carriage vehicles licensed within the City and County of Swansea be **REFUSED**.

**Reason for Decision**

The Committee were not satisfied that there was any good reason to depart from the guidelines in relation to advertising on taxis in Swansea. None of the designs proposed complied with the guidelines. In particular the Authority has a clear colour policy in being which clearly identifies hackney carriage and private hire vehicles and which was brought in for public safety reasons and the Committee again saw no reason to depart from this.

The Committee were also not clear regarding the number of designs submitted and felt that the red colour would confuse the public. Additionally, some of the designs presented would cover the windows which raised further concerns in respect of safety.

33 **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.

34 **TOWN POLICE CLAUSES 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE - AJR.**

The Divisional Licensing Officer detailed the background details in respect of AJR.

AJR outlined the background details and circumstances relating to the offences and answered Members' questions.

Members asked questions of the Officer who responded accordingly.

**RESOLVED** that AJR's hackney carriage and private hire drivers licence be **REVOKED**.

**Reason for Decision**

The Committee felt that AJR was not a fit and proper person due to his recent conviction for dishonesty, particularly considering the number of offences and the period over which they were committed.

35 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE 1125 - BL.**

The Lawyer advising the Committee outlined the procedure to be followed in considering the matter.

The Licensing Officer detailed the background (paragraphs 1 to 7 of the report) in respect of BL.

The witnesses (as detailed in the report) joined the meeting.

The Licensing Officer detailed the background (paragraphs 8 to 15 of the report) in respect of BL.

BL, assisted by Mr Henson, Goldstone's Solicitor, outlined the background details and circumstances of the case.

The Lawyer advising the Committee confirmed the relevant issues for consideration by the Committee.

Officers and Members' asked questions of BL who responded accordingly.

The Police witness provided background details in respect of BL. Reference was made to a Police Transcript of Interview with BL.

The Lawyer advising the Committee asked Mr Henson, Goldstone's Solicitor, whether he had sight of the Police Transcript.

Mr Henson, Goldstone's Solicitor confirmed that a copy of the transcript had been requested from Cockett Police Station on 6 June; however, the copy had not been received.

The Lawyer advising the Committee sought confirmation of Mr Henson as to whether he was content for the Transcript to be referred to and circulated to Committee Members or whether he wished to seek an adjournment in order to view the Police Transcript and take instructions from his client.

Mr Henson confirmed that he wished to seek a short adjournment to consider the Transcript and take instructions from his client. He had no objection to the Police Transcript being circulated to Committee Members.

**RESOLVED** that the Committee Adjourn in order to allow the Solicitor representing the applicant to receive a copy of the Police Transcript and take instruction.

The meeting adjourned at 12.30 p.m.

The meeting reconvened at 1.17 p.m.

With the permission of all parties, the Police Transcript was circulated to Committee Members.

The Police Witness confirmed that a copy of the Police Transcript had been forwarded to Goldstone's Solicitors on the 10<sup>th</sup> June 2014.

The complainants (as detailed in the report) provided background details in relation to the circumstances involving BL.

Officers and Members' asked questions of the complainants who responded accordingly.

Mr Henson, Goldstones Solicitor, provided mitigation for the lack of consistency in BL's evidence and urged the Committee to take no further action.

**RESOLVED** that hackney carriage and private hire driver's licence held by BL be **REVOKED**.

**Reason for Decision**

The Committee did not consider BL's admitted conduct to be befitting of a taxi driver and as such found that she was not a fit and proper person to hold a licence. The Committee were also not satisfied with the evidence put forward by BL in answer to the complaint. The account given to the Committee by BL was later shown to be inconsistent with the statements made to the Police in the transcript of her interview and BL was unable to give any good reason for the inconsistencies when highlighted to her. The Committee considered BL had not been truthful when giving her account to the Committee.

The Committee were also mindful of the previous matter of dishonesty in 2013.

The meeting ended at 2.12 pm

**CHAIR**

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**25<sup>TH</sup> JULY 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**MERCEDES E320 CDI, REGISTRATION MARK P333 TUP**  
**MR PETER EGLITIS**

**1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence for the purposes of executive hire, airport travel and school transport has been received from Mr Peter Eglitis. The vehicle is a Silver Mercedes E320 CDI vehicle registration mark P333 TUP and is capable of carrying 4 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 1st March 2007 and is therefore 7 years and 4 months old. The vehicle passed the Council's inspection on the 8<sup>th</sup> July 2014 and the mileage recorded at this time was 62,689 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 Eglitis has existing school contracts and may be offered additional contracts in the future.
- 2.5 Members are therefore being asked to consider whether the Mercedes E320 CDI vehicle registration mark, P333 TUP 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 25<sup>th</sup> July 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 Eglitis, Members determine whether to:

- a. Grant Mr Eglitis a Restricted Private Hire Vehicle licence in respect of the Mercedes E320 CDI, vehicle registration mark P333 TUP for the purposes of airport travel, executive hire and school contracts only and that this licence is renewed on merit.  
OR
- b. Refuse Mr Eglitis a Restricted Private Hire Vehicle licence in respect of the Mercedes E320 CDI, vehicle registration mark P333 TUP 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:** Kath Thomas  
**Extension:** 5600  
**Legal Contact:** Aled Gruffydd

# Agenda Item 5

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**25<sup>th</sup> JULY 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**FORD GALAXY, REGISTRATION MARK EF52 NKU**  
**MR LEE JONES**

**1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence for the purposes of airport travel and school transport has been received from Mr Lee Jones. The vehicle is a Blue Ford Galaxy, Registration Mark EF52 NKU and is capable of carrying 6 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 16<sup>th</sup> December 2002 and is therefore 11 years and 7 months old. The vehicle passed the Council's inspection on the 11<sup>th</sup> July 2014 and the mileage recorded at this time was 146, 800 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 future.
- 2.5 Members are therefore being asked to consider whether the Ford Galaxy, Registration Number, EF52 NKU is suitable for licensing as a restricted private hire vehicle for the purposes of airport travel and school contracts only.

- 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 25<sup>th</sup> July 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 EF52 NKU for the purposes of airport travel and school contracts only and that this licence is renewed on merit. OR
- b. Refuse Mr Jones a Restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration mark EF52 NKU 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:** Aled Gruffydd



**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**25<sup>th</sup> JULY 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**VOLVO S60, REGISTRATION MARK FG54 WYB**  
**MR LEE JONES**

**1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence for the purposes of airport travel and school transport has been received from Mr Lee Jones. The vehicle is a Blue Volvo S60 Registration Mark FG54 WYB and is capable of carrying 4 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 25<sup>th</sup> October 2004 and is therefore 9 years and 9 months old. The vehicle passed the Council's inspection on the 15<sup>th</sup> July 2014 and the mileage recorded at this time was 122,100 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 future.
- 2.5 Members are therefore being asked to consider whether the Volvo S60, Registration Number, FG54 WYB is suitable for licensing as a restricted private hire vehicle for the purposes of airport travel and school contracts only.

- 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 25<sup>th</sup> July 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 Volvo S60, registration mark FG54 WYB for the purposes of airport travel and school contracts only and that this licence is renewed on merit. OR
- b. Refuse Mr Jones a Restricted Private Hire Vehicle licence in respect of the Volvo S60, registration mark FG54 WYB 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:** Aled Gruffydd

# Agenda Item 7

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**25<sup>th</sup> JULY 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**VOLVO V70, REGISTRATION MARK H8 FMJ**  
**MR LEE JONES**

**1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence for the purposes of airport travel and school transport has been received from Mr Lee Jones. The vehicle is a Green Volvo V70 Registration Mark H8 FMJ and is capable of carrying 4 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 24<sup>th</sup> January 2002 and is therefore 12 years and 6 months old. The vehicle passed the Council's inspection on the 11<sup>th</sup> July 2014 and the mileage recorded at this time was 145, 900 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 future.
- 2.5 Members are therefore being asked to consider whether the Volvo V70, Registration Number, H8 FMJ is suitable for licensing as a restricted private hire vehicle for the purposes of airport travel and school contracts only.

- 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 25<sup>th</sup> July 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 Volvo V70, registration mark H8 FMJ for the purposes of airport travel and school contracts only and that this licence is renewed on merit. OR
- b. Refuse Mr Jones a Restricted Private Hire Vehicle licence in respect of the Volvo V70, registration mark H8 FMJ 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:** Aled Gruffydd

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**25<sup>th</sup> JULY 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**FORD GALAXY, REGISTRATION MARK PE03 JUT**  
**MR LEE JONES**

**1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence for the purposes of airport travel and school transport has been received from Mr Lee Jones. The vehicle is a Black Ford Galaxy, Registration Mark PE03 JUT and is capable of carrying 6 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 1<sup>st</sup> March 2003 and is therefore 11 years and 4 months old. The vehicle passed the Council's inspection on the 11<sup>th</sup> July 2014 and the mileage recorded at this time was 105,300 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 future.
- 2.5 Members are therefore being asked to consider whether the Ford Galaxy, Registration Number, PE03 JUT is suitable for licensing as a restricted private hire vehicle for the purposes of airport travel and school contracts only.

- 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 25<sup>th</sup> July 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 PE03 JUT for the purposes of airport travel and school contracts only and that this licence is renewed on merit. OR
- b. Refuse Mr Jones a Restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration mark PE03 JUT 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:** Aled Gruffydd

# Agenda Item 9

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**25<sup>th</sup> JULY 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**FORD GALAXY, REGISTRATION MARK RE02 OBS**  
**MR LEE JONES**

**1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence for the purposes of airport travel and school transport has been received from Mr Lee Jones. The vehicle is a Black Ford Galaxy, Registration Mark RE02 OBS and is capable of carrying 6 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 25<sup>th</sup> April 2002 and is therefore 12 years and 3 months old. The vehicle passed the Council's inspection on the 11<sup>th</sup> July 2014 and the mileage recorded at this time was 127,800 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 future.
- 2.5 Members are therefore being asked to consider whether the Ford Galaxy, Registration Number, RE02 OBS is suitable for licensing as a restricted private hire vehicle for the purposes of airport travel and school contracts only.



- 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 25<sup>th</sup> July 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 RE02 OBS for the purposes of airport travel and school contracts only and that this licence is renewed on merit. OR
- b. Refuse Mr Jones a Restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration mark RE02 OBS 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:** Aled Gruffydd

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**25<sup>TH</sup> JULY 2014**

**LICENSING OF VEHICLES DESIGNED WITHOUT A SPARE WHEEL**

**1.0 Purpose of Report**

- 1.1 To ask Members to consider authorising licensing officers to grant hackney carriage and private hire vehicles including restricted private hire vehicles a licence where manufactured without provision for a spare wheel.

**2.0 Background**

- 2.1 As Members will be aware, increasing numbers of applications are being reported to the General Licensing Committee for decision as they do not comply with the Council's current licensing criteria relating to the type and age of vehicles. A number of these applications relate also to vehicles manufactured without provision for a spare wheel.

**3.0 Current Position**

- 3.1 Existing vehicle licence criteria dictate the standards of vehicle required by the local authority before consideration of a licence. Such documents ensure that a proprietor has clear guidance prior to making an informed choice of the type of vehicle to purchase. It is important however, that local authorities do not strictly apply these criteria and that all applications for a licence are dealt with on their individual merit.
- 3.2 Current criteria for licensing hackney carriage, private hire and restricted private hire vehicles state that: *'The Proprietor shall ensure that the licensed vehicle at all times carries a spare wheel which complies with current legal requirements (paying particular attention to depth of tread) and wheel changing equipment including a jack and wheel brace.'*
- 3.3 As Members will be aware, many car manufacturers now supply a number of different versions of spare tyre alternatives. Many vehicles are now supplied with a tyre sealant and tyre inflation packs, run flat tyres or space saving non-standard spare tyre or a skinny spare as manufacturers look for different ways of space or weight saving ideas in new models of vehicle. In many of these cases the customer does not have a choice of a spare wheel due to the configuration or design space of the model itself.
- 3.4 The tyre sealant and tyre inflation packs are used to temporarily seal a puncture and are not used to repair the tyre itself. The sealant works by externally injecting the sealant and compressed air through the tyre

valve. The pack seals and inflates punctured tyres instantly allowing the proprietor to drive to the nearest tyre repair centre where the tyre can be removed from the wheel and checked for internal damage before it is repaired permanently or replaced.

- 3.5 Run flat tyres have either a reinforced sidewall or additional internal structure to provide partial support to the tyre in a deflated condition and are being offered by more and more manufacturers on new cars. There are restrictions on use following a puncture. However in general deflated tyres should be capable of at least 50 miles, depending on load at speeds of up to 50 mph.
- 3.6 Space saving non standard spare tyres or skinny spares are increasingly being supplied as standard by car manufacturers to save space and weight. Generally these will be narrower than the standard size car tyres and the maximum speed is usually restricted to 50 mph.

#### **4.0 Proposal**

- 4.1 An increasing number of applications to licence and to replace existing vehicles that do not comply with the Council's current criteria in relation to spare wheels are being received by the Licensing Section. In view of this and as all applications to licence those vehicles outside of current criteria are required to be reported to Licensing Committee, it is proposed that officers of the Licensing Section be authorised to grant such applications. This authorisation only to apply in circumstances where the application complies with all licensing criteria with the exception of the need for a spare wheel in the vehicle. The vehicle must also pass the Council's inspection.
- 4.2 Vehicle applications received that do not comply with other current licensing criteria will be reported to the General Licensing Committee for inspection and consideration.

#### **5.0 RECOMMENDATIONS**

- 5.1 It is recommended that Members authorise officers of the Licensing Section to grant vehicle licences in respect of applications that do not comply with the current spare wheel criteria for licensing vehicles, subject to the vehicle passing the Council's inspection and meeting all other application criteria.

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

**Background Papers:** None  
**Contact Officer:** Yvonne Lewis  
**Extension:** 5600  
**Legal Contact:** Aled Gruffydd

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**25<sup>TH</sup> JULY 2014**

**FOR INFORMATION ONLY**

**RESULT OF APPEALS**

<b>NAME</b>	<b>COURT</b>	<b>DATE</b>	<b>OFFENCE</b>	<b>RESULT</b>
Mr Mohammed Iben Foyez	Swansea Magistrates Court	6 <sup>th</sup> December 2013	<p>Appeal against the decision of the Licensing Committee to revoke the hackney carriage and private hire driver licences held by Mr Foyez.</p> <p>The reason for the decision of the Licensing Committee was that they did not believe Mr Foyez to be a fit and proper person to hold a licence due to the nature and number of convictions.</p>	Appeal dismissed.
Mr Mohammed Iben Foyez	Swansea Crown Court	21 <sup>st</sup> February 2014	Appeal against the decision made by Swansea Magistrates Court to dismiss his appeal.	Appeal dismissed.
Mr Mohammed Iben Foyez	Swansea Crown Court	6 <sup>th</sup> June 2014	Application to state a case for an appeal to the High Court.	Declined.

**Background Papers:** Licensing Committee papers  
**Contact Officer:** Kath Thomas  
**Extension:** 5600  
**Legal Contact:** Aled Gruffydd

# Agenda Item 12

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

### General Licensing Committee – 25 July 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>
	13                      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 13

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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