

## CITY AND COUNTY OF SWANSEA

### NOTICE OF MEETING

You are invited to attend a Meeting of the

### GENERAL LICENSING COMMITTEE


**At:** Committee Room 1, Civic Centre, Swansea

**On:** Friday, 17 October 2014

**Time:** 10.00 am

### AGENDA

	Page No.
<b>1 Apologies for Absence.</b>	
<b>2 Disclosures of Personal and Prejudicial Interest.</b>	<b>1 - 2</b>
<b>3 Minutes:</b> To approve and sign as a correct record the minutes of the General Licensing Committee held on 22 August, 2014.	<b>3 - 7</b>
<b>4 Local Government (Miscellaneous Provisions) Act 1976 - Application to Licence a Restricted Private Hire Vehicle, Skoda Octavia, Registration Mark, YR07 XBL - Mr D Mordecai.</b>	<b>8 - 12</b>
<b>5 Local Government (Miscellaneous Provisions) Act 1976 - Application to Licence a Restricted Private Hire Vehicle, Ford Mondeo, Registration Mark CV61 EZE - Mr J. L. Grey.</b>	<b>13 - 17</b>
<b>6 Exclusion of the Public.</b>	<b>18 - 21</b>
<b>7 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Restricted Hackney Carriage and Private Hire Driver Licence - GWH.</b>	<b>22 - 24</b>
<b>8 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence 1462 - JM.</b>	<b>25 - 38</b>
<b>9 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver Licence - KC.</b>	<b>39 - 41</b>



**Patrick Arran**  
**Head of Legal, Democratic Services & Procurement**  
**Friday, 10 October 2014**

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

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## **GENERAL LICENSING COMMITTEE (12)**

### **Councillors**

#### **Labour Councillors: 8**

David W Cole	Paul Lloyd
Phil Downing	Penny M Matthews
Andrea S Lewis	Hazel M Morris
Clive E Lloyd	Byron G Owen

#### **Liberal Democrat Councillors: 2**

Cheryl L Philpott	T Huw Rees
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#### **Independent Councillor: 1**

Keith E Marsh	
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#### **Conservative Councillor: 1**

Anthony C S Colburn	
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### **Others:**

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

**Total Copies needed – 28**

## 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 GENERAL LICENSING COMMITTEE

HELD AT COMMITTEE ROOM 1 - CIVIC CENTRE SWANSEA ON  
FRIDAY, 22 AUGUST 2014 AT 10.00 AM

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

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

53 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors A S Lewis and C E Lloyd.

54 **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.

55 **MINUTES:**

**RESOLVED** that the Minutes of the meeting of the General Licensing Committee held on 25 July, 2014 and the Special General Licensing Committee held on 31 July, 2014 be approved as a correct record, with apologies for absence being recorded for Councillor T H Rees on 31 July, 2014.

56 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 -  
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE, SEAT  
ALHAMBRA, REGISTRATION MARK KW53 JBV - MR D JONES.**

Members inspected the vehicle.

The Divisional Officer, Licensing, Food and Safety advised that an application for a restricted private hire vehicle licence had been received from Mr D Jones. The vehicle was a green Seat Alhambra, Registration Mark KW53 JBV and is capable of carrying 6 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 D Jones who responded accordingly.

**RESOLVED** that the application made by Mr D Jones for a restricted private hire vehicle licence in respect of the green Seat Alhambra, Registration Mark KW53 JBV for the purposes of airport travel and school contracts only be **APPROVED** subject to officers of the Authority's Licensing Department checking to ensure the marks have been removed from the seats and a new rear plate attached to the vehicle and that the license to be renewed on merit.

57 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE, FORD TRANSIT TOURNEO, REGISTRATION MARK CV08 DCU - MR J L GREY.**

Members inspected the vehicle.

The Divisional Officer, Licensing, Food and Safety advised that an application for a restricted private hire vehicle licence had been received from Mr James Grey. The vehicle is a White Ford Transit Tourneo, Registration Mark CV08 DCU and is capable of carrying 8 passengers.

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

**RESOLVED** that the application made by Mr J Grey for a restricted private hire vehicle licence in respect of the White Ford Transit Tourneo, Registration Mark CV08 DCU for the purposes of airport travel and school contracts only be **APPROVED** and renewed on merit.

58 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE VEHICLE - TOYOTA YARIS.**

Members Inspected the vehicle.

The Divisional Officer, Licensing, Food and Safety advised that a request in principle had been received from Mr Terrance Brophy for Members to determine the suitability of a black Toyota Yaris Icon Plus, 1400cc petrol engine vehicle for use as a hackney carriage vehicle to carry four passengers.

Members noted the powers relating to the licensing of hackney carriage vehicles, existing licensing criteria and Department for Transport - Taxi and Private Hire Licensing; Best Practice Guidance; March 2010

Members asked questions of the Officer who responded accordingly.

Members asked questions of Mr Brophy who responded accordingly.

**RESOLVED** that the request in principle made by Mr Brophy to use a black Toyota Yaris Icon Plus, 1400cc petrol engine vehicle for use as a hackney carriage vehicle to carry four passengers be refused.

**Reasons:**

1. Members took account of the relevant legislation, the Council's hackney carriage vehicle conditions and the information provided by Mr Brophy in answer to questions. The vehicle did not comply with the Council's current hackney carriage vehicle conditions with regards the requirement that the engine capacity of the vehicle shall not be less than 1500cc, and the Members were not satisfied there was any good reason to depart from the same;
2. Having inspected the vehicle Members were also not satisfied that the space allocated for passengers and a reasonable amount of luggage was sufficient. Members had particular regard to hackney carriage vehicle conditions 12 and 20, requiring respectively that all vehicles must be constructed and maintained to be safe and comfortable and that the vehicle must be able to accommodate a reasonable amount of luggage at all times.

59 **EXCLUSION OF THE PUBLIC.**

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

The Committee considered the Public Interest Test in deciding to exclude the public from the meeting for the 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 item on the agenda.

**(CLOSED SESSION)**

60 **EQUALITY ACT 2010 - PASSENGERS IN WHEELCHAIRS - REQUEST FOR AN EXEMPTION CERTIFICATE - MN.**

The Divisional Officer, Licensing, Food and Safety detailed the background details in respect of MN's request.

MN outlined the background details and circumstances of his request and answered Members' questions.

**RESOLVED** that MN's request for an exemption from carrying wheel chair users in his hackney carriage vehicle be **APPROVED** and such exemption be valid for the period until 22 February 2015.

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

The Divisional Officer, Licensing, Food and Safety detailed the background details in respect of RH.

Members asked questions of the Officer who responded accordingly.

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

**RESOLVED** that RH's application to renew his hackney carriage and private hire driver's licence be **APPROVED** and;

1. a final warning be issued to RH regarding his future conduct;
2. No further action be taken in relation to RH'S vehicle licence.

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

The Divisional Officer, Licensing, Food and Safety detailed the background details in respect of LMJ.

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

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

**REASONS:**

1. The Members had regard to the matters set out in the report of the Divisional Officer, Licensing, Food and Safety, including the relevant legislation in respect of the grant of such a licence and the Councils' adopted guidelines on the relevance of convictions, together with the oral representations made by LMJ.



2. Members were not satisfied that the applicant is a fit and proper person to hold such a licence by reason of his offending history. In particular Members were concerned as to the nature and number of convictions for violent offences including criminal damage, dishonesty and serious motoring offences. Whilst some of the convictions were of an age that meant they fell outside the guidelines in relation to relevance of convictions, Members were concerned with the overall pattern of offending behaviour and repeat offending. Whilst Members took on board the explanations given by the applicant in relation to some of the offences they could not be satisfied of his propriety to be licenced as a driver.

The meeting ended at 11.25am.

**CHAIR**

# Agenda Item 4

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**17th OCTOBER 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**SKODA OCTAVIA, REGISTRATION MARK YR07 XBL**  
**MR DAVID MORDECAI**

**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 David Mordecai. The vehicle is a Black Skoda Octavia, Registration Mark YR07 XBL and is capable of carrying 4 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 21<sup>st</sup> June 2007 and is therefore 7 years and 4 months old. The vehicle passed the Council's inspection on the 29<sup>th</sup> September 2014 and the mileage recorded at this time was 200, 331 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 Mordecai 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 Skoda Octavia, Registration Number, YR07 XBL 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 17<sup>th</sup> October 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 Mordecai, Members determine whether to:

- a. Grant Mr Mordecai a Restricted Private Hire Vehicle licence in respect of the Skoda Octavia, registration mark YR07 XBL for the purposes of airport travel and school contracts only and that this licence is renewed on merit. OR
- b. Refuse Mr Mordecai a Restricted Private Hire Vehicle licence in respect of the Skoda Octavia, registration mark YR07 XBL 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**  
**17<sup>TH</sup> OCTOBER 2014**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**FORD MONDEO, REGISTRATION MARK CV61 EZE**  
**MR JAMES L. GREY**

**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 James Grey. The vehicle is a Silver Ford Mondeo, Registration Mark CV61 EZE and is capable of carrying 4 passengers.

**2. BACKGROUND**

- 2.1 The vehicle was first registered on 1<sup>st</sup> September 2011 and is therefore 3 years and 1 month old. The vehicle passed the Council's inspection on the 5th August 2014 and the mileage recorded at this time was 74137 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 Grey has existing school contracts and may be offered additional contracts in future.
- 2.5 Members are therefore being asked to consider whether the Ford Mondeo, Registration Number, CV61 EZE 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 17th October 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 Grey, Members determine whether to:

- a. Grant Mr Grey a Restricted Private Hire Vehicle licence in respect of the Ford Mondeo, registration mark CV61 EZE for the purposes of airport travel and school contracts only and that this licence is renewed on merit. OR
- b. Refuse Mr Grey a Restricted Private Hire Vehicle licence in respect of the Ford Mondeo, registration mark CV61 EZE 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 6

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

### Special General Licensing Committee – 17 October 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>
	7, 8 & 9	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> <p>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</p> <p>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis 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 7

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

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# Agenda Item 8

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

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

Document is Restricted

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

Document is Restricted

# Agenda Item 9

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

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