

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, 14 November 2014

Time: 10.00 am

AGENDA

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Patrick Arran
Head of Legal, Democratic Services & Procurement
Friday, 7 November 2014

Contact: Democratic Services - Tel: (01792) 637292

GENERAL LICENSING COMMITTEE (12)

Councillors

Labour Councillors: 8

David W Cole	Paul Lloyd
Phil Downing	Penny M Matthews
Andrea S Lewis	Hazel M Morris
V Mandy Evans	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, 17 OCTOBER 2014 AT 10.00 AM

PRESENT: P M Matthews (Chair) Presided

Councillor(s)	Councillor(s)	Councillor(s)
A C S Colburn	P Lloyd	H M Morris
D W Cole	K E Marsh	C L Philpott
P Downing	B G Owen	T H Rees
C E Lloyd		

63 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor A S Lewis.

64 DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST

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

Councillor D W Cole – Personal – Minute No. 70 – Town Police Clauses Act 1847 – Local Government (Miscellaneous Provisions) Act 1976 – Application for a Restricted Hackney Carriage and Private Hire Driver Licence – GWH - GWH is known to me. Councillor D W Cole left prior to consideration of the item.

Councillor P Lloyd – Personal – Minute No. 66 – Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Skoda Octavia, Registration Mark YR07 XBL – Mr D Mordecai – Mr Mordecai was represented by Mr Eglitis who is known to me. Councillor P Lloyd left prior to consideration of the item.

Councillor P M Matthews – Personal – Minute No. 66 – Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Skoda Octavia, Registration Mark YR07 XBL – Mr D Mordecai – Mr Mordecai was represented by Mr Eglitis who is known to me. Councillor P M Matthews left prior to consideration of the item.

65 MINUTES

RESOLVED that the Minutes of the meeting of the General Licensing Committee held on 22 August, 2014, be approved as a correct record subject to Councillor C L Philpott's apologies being recorded.

**COUNCILLOR P DOWNING (VICE CHAIR) PRESIDED FOR THE FOLLOWING
ITEM**

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

Members' inspected the vehicle.

The Divisional Officer, Licensing, Food and Safety, advised that an application for a restricted private hire vehicle had been received from Mr D Mordecai. Mr Mordecai had been unable to attend and was represented by Mr P Eglitis. The vehicle was a black Skoda Octavia, Registration Mark YR07 XBL and was 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.

RESOLVED that the application made by Mr D Mordecai for a restricted private hire vehicle in respect of the black Skoda Octavia, Registration Mark YR07 XBL for the purposes of airport travel and school transport be **APPROVED** and renewed on merit.

[Note: Councillors H M Morris and K E Marsh did not participate in the consideration or vote in respect of this item].

COUNCILLOR P M MATTHEWS (CHAIR) PRESIDED

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

The Divisional Officer, Licensing, Food and Safety, advised that Mr J L Grey had failed to attend the meeting.

RESOLVED that consideration of the matter be deferred to the next meeting of the General Licensing Committee and should Mr J L Grey fail to attend the matter would be considered in his absence.

68 EXCLUSION OF THE PUBLIC

The Committee was requested to exclude the public from the meeting during the consideration of the items of business identified in the recommendations to the report on the grounds that it involved the likely disclosure of exempt information as set out in the exclusion paragraph of 12A of the Local Government Act 1972, as

amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007, relevant to the item of business as set out in the report.

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

It was **RESOLVED** that the public be excluded for the following items of business.

(CLOSED SESSION)

**69 TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND
PRIVATE HIRE DRIVER'S LICENCE 1462 - JM**

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

JM accompanied by Mr Warren, Solicitor, outlined the background details and circumstances relating to the offences and answered Members' questions.

RESOLVED that:

- a. JM's application to renew his Hackney Carriage and Private Hire Driver Licences be **REFUSED**; and
- b. No further action be taken in respect of JM's Hackney Carriage Vehicle Licence.

Reason for Decision

Members' were not satisfied that JM was a fit and proper person due to the number of the motoring convictions. Also concerns were raised in respect of JM's admission that two of the offences were committed whilst passengers were on board. In addition to this Members took into account previous warnings issued and failure to comply with his conditions and bye-laws of licence.

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

GWH failed to produce his current DLVA driving licence.

Cllr Cole recognised GWH then declared a personal interest, and left the room prior to the item being considered.

The Lawyer advising the Committee advised that any decision would be conditional on the production of GWH's current DVLA licence

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

GWH accompanied by Mr Warren, Solicitor, outlined the background details and circumstances relating to the offence.

RESOLVED that GWH's application for the grant of a Hackney Carriage and Private Hire Driver's Licence be **GRANTED** subject to the production of GWH's current DVLA driving licence.

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

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

KC accompanied by Mr Warren, Solicitor, outlined the background details and circumstances relating to the offences and answered Members' questions.

RESOLVED that KC's application to for the grant of a Hackney Carriage and Private Hire Driver's Licence be **REFUSED**.

Reason for Decision

Members' were not satisfied that KC was a fit and proper person due to serious concerns over his suitability as a taxi driver in view of the offences for dishonesty and that he further failed to declare the offences on application. Members' also had regard to the Council's adopted guidelines which states that between three and five years should pass before consideration of an application following a conviction and saw no reason to depart from these guidelines on this occasion.

The meeting ended at 11.20 am

CHAIR

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
14TH NOVEMBER 2014

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,
FORD MONDEO, REGISTRATION MARK VT07 ALU
MR DAVID 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 David Jones. The vehicle is a Black Ford Mondeo, Registration Mark VT07 ALU and is capable of carrying 4 passengers.

2. BACKGROUND

- 2.1 The vehicle was first registered on 21st August 2007 and is therefore 7 years and 3 months old. The vehicle passed the Council's inspection on the 10th October 2014 and the mileage recorded at this time was 105, 616 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 Mondeo, Registration Number, VT07 ALU 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 14TH November 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 (Part VI of the Road Traffic Act 1988),

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 Mondeo, registration mark VT07 ALU 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 Mondeo, registration mark VT07 ALU giving reasons why it is not considered suitable under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Committee's instructions are requested.

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

Agenda Item 5

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
14TH NOVEMBER 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.
- 1.2 This matter was deferred by Members on the 17th October 2014 as Mr Grey did not attend.

2. BACKGROUND

- 2.1 The vehicle was first registered on 1st September 2011 and is therefore 3 years and 2 months 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 14th November 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 (Part VI of the Road Traffic Act 1988),

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: Lyndsay Thomas

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE LICENSING COMMITTEE
14th NOVEMBER 2014

TOWN POLICE CLAUSES ACT 1847
APPLICATION TO SUBSTITUTE A HACKNEY CARRIAGE VEHICLE
FORD MONDEO, REGISTRATION MARK CK57 WWL
MR ROBERT REES

1. **INTRODUCTION**

- 1.1 An application to substitute a vehicle on to an existing hackney carriage licence has been received from Mr Rees. The vehicle is a black Ford Mondeo, Registration Mark CK57 WWL and is capable of carrying 4 passengers.

2. **BACKGROUND**

- 2.1 The vehicle was first registered on 21st December 2007 and is therefore 6 years and 11 months old. The vehicle passed the Council's inspection on the 27th October 2014 and the mileage recorded at this time was 38,059
- 2.2 Mr Rees has confirmed that his existing vehicle, HC4055, registration mark SB52 MKZ, is 'getting more expensive to maintain and service every year' and is therefore due to its age, tired and becoming uneconomical to repair. The existing vehicle is also a black Ford Mondeo and is 11 years and 10 months old.
- 2.3 Members are therefore asked to determine the suitability of the black Ford Mondeo, registration mark CK57 WWL for licensing as a hackney carriage vehicle in Swansea.
- 2.4 In order to assist Members in reaching their decision the vehicle will be available for inspection at the Civic Centre on Friday 14th November 2014.

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

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

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

4. CURRENT HACKNEY CARRIAGE VEHICLE POLICY

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

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

- 5.1 In December 2008 the Licensing Committee considered a request from a hackney carriage proprietor to allow licence holders to purchase second hand vehicles to replace vehicles that have been damaged and can no longer be used as a licensed vehicle as a result.
- 5.2 The decision of the Licensing Committee was that any individual requests would be considered on merit should they arise.

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

6. **RECOMMENDATION**

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

- a) grant the application made by Mr Rees and substitute the Ford Mondeo, Registration Mark CK57 WWL onto the hackney carriage vehicle licence HC 4055; or
- b) refuse the application made by Mr Rees to substitute the Ford Mondeo, Registration Mark CK57 WWL onto the hackney carriage vehicle licence HC 4055 giving full reasons for this decision.

The Licensing Committee's instructions are requested.

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

Agenda Item 7

Report of the Head of Legal, Democratic Services & Procurement

Special General Licensing Committee – 14 November 2014

EXCLUSION OF THE PUBLIC

Purpose:	To consider whether the Public should be excluded from the following items of business.	
Policy Framework:	None.	
Reason for Decision:	To comply with legislation.	
Consultation:	Legal.	
Recommendation(s):	It is recommended that:	
1)	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	Item No.	Relevant Paragraphs in Schedule 12A
	8, 9 and 10	12, 13 & 18
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	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
12	Information relating to a particular individual.
	<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>
13	Information which is likely to reveal the identity of an individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. 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>
14	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. 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>
15	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the

	Crown and employees of, or office holders under, the authority.
	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.
16	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
	No public interest test.
17	Information which reveals that the authority proposes: (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) To make an order or direction under any enactment.
	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.
18	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
	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.
18c	The deliberations of a Standards Committee or of a sub committee of a Standards Committee established under the provisions of the Local Government Act 2000 in reaching any finding of a matter referred to it.

Agenda Item 8

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

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.

Document is Restricted

Agenda Item 10

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

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