

# 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, 6 March 2015

**Time:** 10.00 am

## AGENDA

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<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 6 February, 2015.	<b>3 - 7</b>
<b>4 Local Government (Miscellaneous Provisions) Act 1976 - Application to Licence a Restricted Private Hire Vehicle, Ford Galaxy, Registration Mark NT04 ZXR - Mr D Jones.</b>	<b>8 - 13</b>
<b>5 Town Police Clauses Act 1847 - Application for the Grant of a Hackney Carriage Vehicle Licence - London Taxi TX11, Registration Mark SN53 KFW - Mr Q S Kanwar.</b>	<b>14 - 27</b>
<b>6 Consideration of the Removal of Private Hire Vehicle Condition 5 and Removal and Amendment of Restricted Private Hire Vehicle Conditions 3 &amp; 5.</b>	<b>28 - 30</b>
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<b>9 Exclusion of the Public.</b>	<b>36 - 39</b>
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| 11 | Equality Act 2010 - Passengers in Wheelchairs - Request for an Exemption Certificate - MDHC.  | 43 - 46 |
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**Patrick Arran**  
**Head of Legal, Democratic Services & Procurement**  
**Friday, 27 February 2015**

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

## GENERAL LICENSING COMMITTEE (12)

### Councillors

#### Labour Councillors: 8

Ann M Cook	Paul Lloyd
David W Cole	Penny M Matthews
Phil Downing	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	Licensing Officer 3 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 – 24**

## 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:



## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COMMITTEE ROOM 1, CIVIC CENTRE, SWANSEA ON  
FRIDAY, 6 FEBRUARY 2015 AT 10.00 AM

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

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

#### **Officers:**

R Jenkins	-	Licensing Officer
R Jones	-	Transportation
Y Lewis	-	Senior Licensing Officer
C Swain	-	Group Leader, Transportation
L Thomas	-	Senior Lawyer
S Woon	-	Democratic Services Officer

#### 106 **APOLOGIES FOR ABSENCE.**

No apologies for absence were received.

#### 107 **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 P Lloyd – Personal – Minute No. 109 – Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Mondeo, Registration Mark WR61 VML – Mr P Eglitis – Mr P Eglitis is known to me. Councillor P Lloyd left prior to consideration of the item.

Councillor P Lloyd – Personal – Minute No. 110 – Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Mondeo, Registration Mark EU54 NFG – Mr L Jones – Mr L Jones is known to me. Councillor P Lloyd left prior to consideration of the item.

Councillor P M Matthews – Personal – Minute No. 109 - Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Mondeo, Registration Mark WR61 VML – Mr P Eglitis – Mr P Eglitis is known to me. Councillor P Matthews left prior to consideration of the item.

108 **MINUTES:**

**RESOLVED** that the Minutes of the General Licensing Committee held on 9 January, 2015 be approved as a correct record.

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

109 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE - FORD MONDEO - REGISTRATION MARK WR61 VML - MR P EGLITIS.**

The Senior Licensing Officer advised that an application for a restricted private hire vehicle licence for the purposes of airport travel, school transport and executive hire had been received from Mr P Eglitis. The vehicle was a black Ford Mondeo, Registration Mark WR61 VML and was capable of carrying 4 passengers.

Members' noted the background, relevant considerations (which included the vehicle, purpose, inspections and documents); relevant issues in relation to Restricted Private Hire 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 P Eglitis for a restricted private hire vehicle in respect of the black Ford Mondeo, Registration Mark WR61 VML for the purposes of airport travel, school transport and executive hire be **APPROVED** and renewed on merit.

110 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE - FORD GALAXY, REGISTRATION MARK EU54 NFG - MR L JONES.**

The Senior Licensing Officer, advised that an application for a restricted private hire vehicle licence for the purposes of airport travel and school transport had been received from Mr L Jones. The vehicle was a blue Ford Galaxy, Registration Mark EU54 NFG and was capable of carrying 6 passengers.

Members' noted the background, relevant considerations (which included the vehicle, purpose, inspections and documents); relevant issues in relation to Restricted Private Hire 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 Mr L Jones who responded accordingly.

**RESOLVED** that the application made by Mr L Jones for a restricted private hire vehicle licence in respect of the blue Ford Galaxy, Registration Mark EU54 NFG for the purposes of airport travel and school transport be **APPROVED** and renewed on merit.

111 **RESULT OF APPEALS. (FOR INFORMATION).**

The Results of Appeals was **NOTED** for information.

112 **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)**

113 **APPEAL AGAINST DECISION NOT TO APPROVE AS A PASSENGER ASSISTANT FOR HOME TO SCHOOL TRANSPORT - KJD.**

The Group Leader, Transportation, detailed the background information in respect of KJD.

KJD, accompanied by Mr Clarke, outlined the background details and circumstances of his request and answered Members' questions.

**RESOLVED** that KJD's appeal be **DISMISSED**.

**Reason for Decision**

The Committee were not satisfied that they should depart from the guidelines in relation to a 3 year period free from conviction in light of admissions made by KJD in respect of repeated drug use after her first conviction which resulted in her 2<sup>nd</sup> conviction. In addition the Committee found she had not had at least 3 years free of convictions between her 1<sup>st</sup> and 2<sup>nd</sup> conviction or between her 2<sup>nd</sup> conviction and the hearing of her application. Neither could KJD confirm when her detoxification had ceased in order for the Committee to find if 5 years had passed.

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

The Senior Licensing Officer detailed the background information in respect of IRG.

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



**RESOLVED** that IRG's application for a Hackney Carriage and Private Hire Driver's Licence be **APPROVED**.

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

The Senior Licensing Officer advised that the matter had been deferred from 9 January, 2015, in order to allow JJBT to supply evidence to support his assertion that the insurance policy had been paid.

JJBT advised that he was unable to obtain evidence and answered Member and Officer questions.

**RESOLVED** that JJBT's hackney carriage and private hire driver's licence be revoked under Section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 'any other reasonable cause' and JJBT's private hire vehicle licence PH4571 be revoked under Section 60 (1) (c) of the Local Government (Miscellaneous Provisions) Act 1976 'any other reasonable cause'.

**Reason for Decision**

The Committee did not deem JJBT to be a fit and proper person and revoked his hackney carriage and private hire driver's licence because they considered the offence to be serious especially as he had been driving the private hire vehicle with passengers on board at the time the offence was committed. JJBT had not satisfied the Members, even after being given time to do so, that at the time the offence was committed he had reason to believe the vehicle was insured. Furthermore, JJBT did not appear to recognise the need to ensure that his private hire vehicle was properly insured for carrying out his business transporting members of the public. Therefore the Committee were not satisfied going forward JJBT would insure the vehicle. The Committee did not consider it appropriate to depart from the guidelines and the full 3 years free from convictions was required.

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

The Senior Licensing Officer detailed the background information in respect of AJD.

AJD failed to produce his current DVLA driver licence.

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

**RESOLVED** that AJD's application for a Hackney Carriage and Private Hire Driver's Licence be **REFUSED** under Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

**Reason for Decision**

The Committee considered that AJD was not a fit and proper person because although AJD had over 5 years free from convictions, he had admitted buying and taking illegal substances in 2013. The Committee therefore felt they could not attach any real weight to the information provided by his doctor in respect of his fitness to drive.

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

The Senior Licensing Officer detailed the background information in respect of ALH.

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

**RESOLVED** that ALH's application for a Hackney Carriage and Private Hire Driver's Licence be **APPROVED**.

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

The Senior Licensing Officer detailed the background information in respect of SA.

SA, accompanied by Mr Warren, Solicitor and a representative from Swansea Bay Equality Council, outlined the background details and circumstances relating to the matters contained in the report and answered Members' questions.

**RESOLVED** that SA's application for a Hackney Carriage and Private Hire Driver's Licence be **APPROVED** and SA to be issued with a warning letter setting out the standards expected of hackney carriage and private hire driver's licensed with the City and County of Swansea in relation to future conduct.

The meeting ended at 12.05 pm

**CHAIR**

# Agenda Item 4

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**6th MARCH 2015**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**FORD GALAXY, REGISTRATION MARK NT04 ZXR**  
**MR DAVID JONES**

## **1. INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence has been received from Mr David Jones. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age and as it is not specially adapted for School Transport purposes.
- 1.2 At the General Licensing Committee of 17<sup>th</sup> December 2014, Members agreed that any vehicle that does not comply with the current licensing criteria and/or is over 5 years continue to be considered by Committee. However, in future Members of the General Licensing Committee would not inspect the vehicle. The vehicle would be inspected by Licensing Officers prior to the Licensing Committee and Members would consider a written report.

## **2. RELEVANT CONSIDERATIONS**

### **The Vehicle**

- 2.1 Mr Jones wishes to apply for a restricted private hire licence for a blue Ford Galaxy type vehicle. The vehicle was first registered on 30<sup>th</sup> July 2004 and is therefore 10 years and 7 months old. The registration of the vehicle is NT04 ZXR and is capable of carrying 6 passengers.

### **The Purpose**

- 2.2 It is proposed that the vehicle will be used for School Transport and Airport Transport purposes only.

### **Inspections and Documents**

- 2.3 The vehicle passed the Council's inspection at CTU on 3<sup>rd</sup> February 2015 and the mileage recorded at this time was 150,407 miles.
- 2.4 Mr Jones has supplied the full service history for the vehicle with the exception of years 2009 and 2011 and an up to date vehicle history check both of which are satisfactory.

- 2.5 Licensing Officers also inspected the vehicle on 3<sup>rd</sup> February 2015 at the Civic Centre. The vehicle is considered to be of suitable standard for licensing as a restricted private hire vehicle.

### **3. CURRENT LICENSING CRITERIA**

- 3.1 Council's current age criteria 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”.*

- 3.2 The conditions also state:

*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.’*

- 3.3 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.
- 3.4 Members are therefore being asked to consider whether the Ford Galaxy, Registration Number, NT04 ZXR is suitable for licensing as a restricted private hire vehicle for the purposes of airport travel and school contracts only.

### **4. RESTRICTED PRIVATE HIRE VEHICLES**

- 4.1 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.
- 4.2 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.

- 4.3 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.
- 4.4 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.

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

- 5.1 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."*

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

- 6.1 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

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.

6.2 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.

**7. RECOMMENDATION**

- 7.1 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 NT04 ZXR for the purposes of airport travel and school contracts 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 NT04 ZXR 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 and General Licensing Committee Report of 17<sup>th</sup> December 2014  
**Contact Officer:** Kath Thomas  
**Extension:** 5600  
**Legal Contact:** Kath Clague



# Agenda Item 5

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**6<sup>th</sup> MARCH 2015**

**TOWN POLICE CLAUSES ACT 1847**  
**APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE**  
**LICENCE – LONDON TAXI TX11, REGISTRATION MARK SN53 KFW**  
**MR QAMAR SAEED KANWAR**

1. **INTRODUCTION**

- 1.1 An application for the grant of a hackney carriage vehicle licence has been received from Mr Kanwar. The vehicle is a black London Taxi Registration Mark SN53 KFW and is capable of carrying 5 passengers.

2. **BACKGROUND**

- 2.1 The vehicle was first registered on 3rd November 2003 and is therefore 11 years and 4 months old.
- 2.2 This vehicle was before the Licensing Committee on 21<sup>st</sup> December 2012 when Members approved an application to substitute the vehicle onto hackney carriage vehicle licence HC 5028. This licence expired on 31<sup>st</sup> December 2014 and was held by the previous proprietor, Mr Martin Griffiths.
- 2.4 On 21<sup>st</sup> January 2015, Mr Kanwar purchased the London Taxi vehicle registration mark SN53 KFW and submitted an application for the grant of a hackney carriage vehicle licence on the 22<sup>nd</sup> January 2015.
- 2.5 On 23<sup>rd</sup> January 2015 the vehicle SN53 KFW failed the Council's inspection. The faults recorded on the inspection sheet were:
- Near side front ball joint defective;
  - Off side front ball joint defective;
  - Rear of rear spring eyes worn on near and off side (bushes);
  - Engine oil leak;
  - Near side rear indicator defective.
- 2.6 On 26<sup>th</sup> January 2015 the vehicle passed the Council's inspection and the mileage recorded at this time was 73,088 miles.
- 2.7 On 4<sup>th</sup> February 2015 the vehicle SN53 KFW attended at the Civic Centre and was inspected by Licensing Officers. Defects were noted

by officers and photographs were taken of the vehicle.  
The photographs are attached at Appendix A.

- 2.8 The defects noted were:
- \* Near side of rear bumper covered in black tape and not secure to the body of the vehicle;
  - \* Bottom of near side front door covered with black tape;
  - \* Bolt missing to secure the wheelchair ramp to the vehicle;
  - \* Corrosion of the vehicle body where rear back door closes;
  - \* Seat belt receiver for rear flip down seat held together with tape;
  - \* Corrosion on wheel arches and on bottom of nearside front and off side rear doors
  - \* Windows on both front doors not working.

2.9 Members are therefore asked to determine the suitability of the black London Taxi TX11 vehicle registration mark SN53 KFW for licensing as a hackney carriage vehicle in Swansea.

2.10 In order to assist Members in reaching their decision the vehicle will be available for inspection at the Civic Centre on Friday 6<sup>th</sup> March 2015.

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.*

**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, inspecting the vehicle and hearing from Mr Kanwar, Members determine whether to:
  - a) grant the application made by Mr Kanwar to licence the London Taxi TX11 vehicle registration mark SN53 KFW as a hackney carriage ; or

- b) refuse the application made by Mr Kanwar to licence the London Taxi TX11 vehicle registration mark SN53 KFW as a hackney carriage giving full reasons for this decision.

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

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

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APPENDIX

A





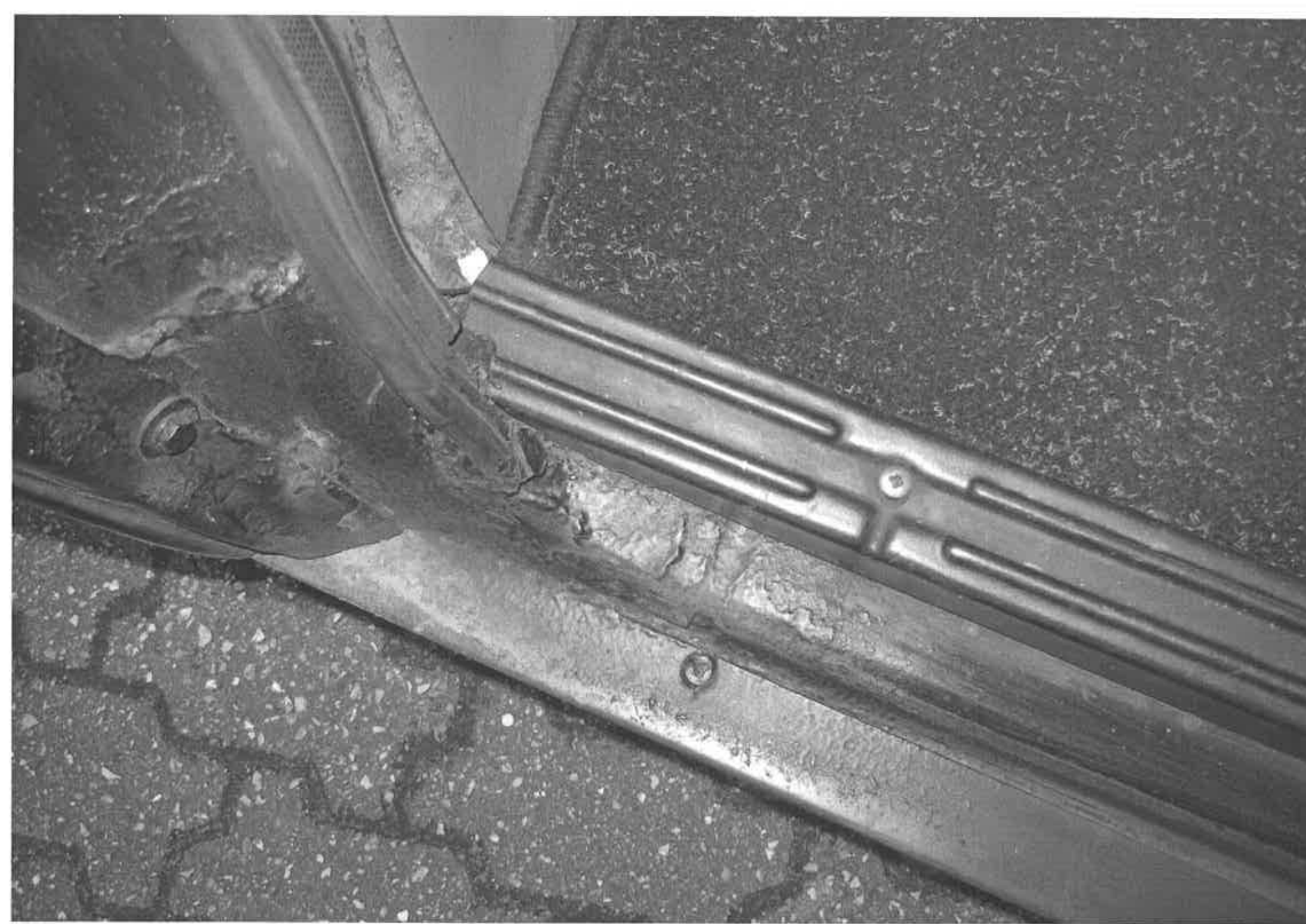






















# Agenda Item 6

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**6th MARCH 2015**

**CONSIDERATION OF THE REMOVAL OF PRIVATE HIRE VEHICLE**  
**CONDITION 5 AND REMOVAL AND AMENDMENT OF RESTRICTED**  
**PRIVATE HIRE VEHICLE CONDITIONS 3 & 5**

**1.0 Background**

- 1.1 As Members will be aware, authorisation was given to licensing officers on 20<sup>th</sup> June 2014 to grant vehicle applications outside of the current age criteria, as long as the vehicle met all other required licensing criteria, had passed the Council's inspection test and was under 5 years old. A copy of the previous report is attached at Appendix A.
- 1.2 Due to the increasing number of applications of this nature, the General Licensing Committee on 14<sup>th</sup> November 2014 requested that consideration be given to authorising licensing officers to grant vehicle licences for any vehicle outside of the current age criteria. However, following consideration of this matter on 17<sup>th</sup> December 2014, Members did not agree to give licensing officers further authorisation but resolved not to inspect vehicles in the future and to rely on written reports from licensing officers in determining applications.

**2.0 Proposal**

- 2.1 In order to ensure that application criteria and conditions of licence are clear, transparent and consistent, it is proposed to change the following conditions to reflect the decision of 20<sup>th</sup> June 2014, namely:

Private hire vehicle Condition 5 and Restricted private hire vehicle condition 5 currently 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 relicensed on merit. If a vehicle when first licensed is any age up to 2 years from the date of first registration it will be relicensed on merit until it is six years old.”*

And replace condition 5 with the following condition:

*“Vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration. Vehicles will be relicensed on merit.”*

2.2 In addition, a number of restricted private hire vehicles have been reported for Committee decision as they do not comply with the condition that requires them to be specially adapted for school transport purposes and have been approved. School Transport Officers have confirmed that many of the contracts being offered do not require specially adapted vehicles.

2.3 Restricted private hire vehicle condition 3 currently states:

*“The Restricted Private Hire Vehicle Licence can only be used for restricted Private Hire Journeys pre-booked with a licensed operator and identified in the licence. These are:*

*School Transport contracts*

*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.*

*Airport travel and / or Executive hire.”*

2.4 It is proposed that restricted private hire vehicle condition 3 is replaced with the following condition:

*“The Restricted Private Hire Vehicle Licence can only be used for restricted Private Hire Journeys pre-booked with a licensed operator and identified in the licence. These are :*

*School Transport contracts;*

*Airport Travel;*

*Executive Hire.”*



**3.0 RECOMMENDATIONS**

3.1 It is recommended that:

i) Members remove private hire vehicle condition 5 and restricted private hire vehicle condition 5 and replace condition 5 with the following condition:

*“Vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration. Vehicles will be relicensed on merit.”*

and

ii) condition 3 that requires restricted private hire vehicles to be specially adapted for school transport purposes be removed and replaced with the following condition:

*“The Restricted Private Hire Vehicle Licence can only be used for restricted Private Hire Journeys pre-booked with a licensed operator and identified in the licence. These are :*

*School Transport contracts;  
Airport Travel;  
Executive Hire.”*

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

<b>Background Papers:</b>	<b>Special General Licensing Committee 20<sup>th</sup> June 2014</b>
<b>Contact Officer:</b>	<b>Yvonne Lewis</b>
<b>Extension:</b>	<b>5600</b>
<b>Legal Contact:</b>	<b>Kath Clague</b>

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**6th MARCH 2015**

**AMENDMENT OF HACKNEY CARRIAGE VEHICLE, PRIVATE HIRE VEHICLE AND RESTRICTED PRIVATE HIRE VEHICLE CONDITIONS**

**1.0 Background**

- 1.1 As Members will be aware, from 1<sup>st</sup> October 2014 the Driver and vehicle licence agency (DVLA) no longer requires vehicles to display a valid tax disc on a vehicle.

**2.0 Proposal**

- 2.1 In order to ensure that conditions of licence are kept up to date, it is proposed to change the wording of the following conditions to remove the need to display a valid road fund licence at the time of inspection, namely;

Hackney Carriage vehicle condition 7 a) currently states:

- “a) The licence holder must present the registration document (V5c) at the time of the grant of the licence or where the vehicle has been modified. The licence holder must present a valid certificate of insurance issued under the Road Traffic Act 1988 and current M.O.T. certificate (which is required yearly from when the vehicle has reached the age of one year), at the time of payment of the appropriate fee. The licence holder must present the vehicle for an official inspection at the designated centre and must display a valid road fund licence at the time of inspection.”

Private hire vehicle Condition 8 a) and Restricted private hire vehicle condition 8 a) currently states:

- “a) The licence holder must present the registration document (V5c) at the time of the grant of the licence or where the vehicle has been modified. The licence holder must present a valid certificate of insurance issued under the Road Traffic Act 1988 and current M.O.T. certificate, at the time of payment of the appropriate fee. The licence holder must present the vehicle for an official inspection at the designated centre and must display a valid road fund licence at the time of inspection.”

**3.0 RECOMMENDATIONS**

3.1 It is recommended that:

i) Members remove the need to display a valid road fund licence at the time of inspection from hackney carriage vehicle, private hire vehicle and restricted private hire vehicle conditions.

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

<b>Background Papers:</b>	<b>None</b>
<b>Contact Officer:</b>	<b>Yvonne Lewis</b>
<b>Extension:</b>	<b>5600</b>
<b>Legal Contact:</b>	<b>Kath Clague</b>

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**6th MARCH 2015**

**PROCEDURE FOR CONSIDERATION OF “PART 2” GENERAL LICENSING COMMITTEE REPORTS**

**1.0 Background and Purpose of Report**

- 1.1 As Members are aware, following recent legal advice, the procedure for consideration of “Part 2” General Licensing Committee reports has changed.
- 1.2 This report is for Members to formally agree the new procedure. Copies of this procedure will also be sent to all persons invited to attend the General Licensing Committee in respect of “Part 2” reports in the future.

**2.0 The Procedure**

- 2.1 Following a decision by Members to exclude and remove the press and public, the Applicant/Licence Holder and where applicable, their representative(s) will be invited into the room where the General Licensing Committee or General Licensing Sub Committee is being held in the order set out on the agenda unless the Committee agrees to vary the order . The Members of the Committee will have received a report about the matter being considered and will have the report before them.
- 2.2 The Democratic Services Officer will request the Applicant/Licence Holder to provide a valid copy of the DVLA Driving Licence to be verified by the Legal advisor and Licensing Officers.
- 2.3 The Chair of the Committee will introduce the Officers present at the Committee, these will normally include the Council’s Legal Officer, the Democratic Services Officer, the Licensing Officer and any other officers who may be present.
- 2.4 The Chair will explain the procedure and running order of the meeting and will ask the Applicant/Licence Holder to introduce any representative(s) present.
- 2.5 The Licensing Officer will ask the Applicant/Licence Holder to confirm that they have received the report being considered.

- 2.6 If the Applicant/Licence Holder states that they have not received the report or disputes any facts contained within the report, this matter will be considered at this stage. Depending on the outcome, the Committee may resolve to adjourn consideration of the report in order that the query may be addressed.
- 2.7 The Licensing Officer will present the facts of the case by taking the Committee through the report.
- 2.8 The Chair will invite Members to ask any questions of the Licensing Officer.
- 2.9 The Chair will invite the Applicant/Licence Holder or their representative(s) to speak in relation to the matter. This is the opportunity to raise any relevant matters, including an explanation of the matters referred to in the report and any information to support the case.
- 2.10 The Chair will invite the Members of the Committee present to ask any questions of the Applicant/Licence Holder or their representative(s).
- 2.11 The Chair will invite the Licensing Officer and any other officer present to ask any questions of the Applicant/Licence Holder or their representative(s).
- 2.12 The Chair will ask the Licensing Officer and the Applicant/Licence Holder or their representative(s) if they have anything further to say to sum up the case.
- 2.13 The Chair will explain that the Applicant/Licence Holder or their representative(s) may telephone the Licensing Section after 2.30pm that day or a specified date and time for the decision of the Committee.
- 2.14 The Chair will ask the Licensing Officer, any other officer present, the Applicant/Licence Holder and any representative to leave the room to allow discussion of the matter in private. All parties are requested to remain outside of the Committee Room until the Democratic Services Officer has confirmed that they may leave.

- 2.15 The Council's Legal Officer and Democratic Services Officer will remain present during the discussion to advise on points of law and procedure and to take a record of the proceedings as appropriate.
- 2.16 If Members of the Committee require further information or clarification on any matter, all persons who have withdrawn from the hearing are invited to return. After the information required has been provided all parties will be asked to withdraw again.
- 2.17 The Committee considers all the evidence provided and makes a decision.
- 2.18 The decision and reasons for the decision (where relevant) will be confirmed in writing within 14 days of the decision being made by the General Licensing Committee. The letter will include details of any statutory rights of appeal where relevant.

### **3.0 RECOMMENDATIONS**

- 3.1 It is recommended that Members adopt the procedure to be followed by the General Licensing Committee as detailed in paragraph 2 the report.

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

<b>Background Papers:</b>	<b>None</b>
<b>Contact Officer:</b>	<b>Yvonne Lewis</b>
<b>Extension:</b>	<b>5600</b>
<b>Legal Contact:</b>	<b>Kath Clague</b>

# Agenda Item 9

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

### General Licensing Committee – 6 March 2015

#### 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>
	10, 11, 12 & 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> <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 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.

Document is Restricted

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
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# Agenda Item 12

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  
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as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# 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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