

# CITY AND COUNTY OF SWANSEA

## NOTICE OF MEETING

You are invited to attend a Meeting of the

## GENERAL LICENSING COMMITTEE


**At:** Committee Room 3A, Guildhall, Swansea

**On:** Friday, 14 August 2015

**Time:** 10.00 am

## AGENDA

	Page No.
<b>1 Apologies for Absence.</b>	
<b>2 Disclosures of Personal and Prejudicial Interest.</b>	<b>1 - 2</b>
<b>3 Minutes:</b> To approve and sign as a correct record the minutes of 10 July, 2015.	<b>3 - 6</b>
<b>4 Local Government (Miscellaneous Provisions) Act 1976 - Application to Licence a Restricted Private Hire Vehicle, Volkswagen Passat, Registration Mark - BT03 JTY - Mr D Jones.</b>	<b>7 - 10</b>
<b>5 Local Government (Miscellaneous Provisions) Act 1976 - Application to Licence a Restricted Private Hire Vehicle, Rover 55, Registration Mark - BF51 KYU - Mr D Jones.</b>	<b>11 - 14</b>
<b>6 Exclusion of the Public.</b>	<b>15 - 18</b>
<b>7 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence 1939 - SS.</b>	<b>19 - 30</b>
<b>8 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Restricted Hackney Carriage and Private Hire Driver Licence - SJM.</b>	<b>31 - 34</b>
<b>9 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver Licence - WTH.</b>	<b>35 - 38</b>



**Patrick Arran**  
**Head of Legal, Democratic Services & Procurement**  
**Thursday, 6 August 2015**

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

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

### **Councillors**

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

Ann M Cook	V Mandy Evans
David W Cole	Paul Lloyd
Jan P Curtice	Penny M Matthews
Phil Downing	Hazel M Morris

#### **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, 10 JULY 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 C S Colburn	P Downing	K E Marsh
D W Cole	V M Evans	C L Philpott
A M Cook	P Lloyd	T H Rees
J P Curtice		

#### **Officers:**

L Anthony	-	Divisional Licensing Officer
K Thomas	-	Licensing Officer
L Thomas	-	Senior Lawyer
S Woon	-	Democratic Services Officer

#### 15 **APOLOGIES FOR ABSENCE.**

An apology for absence was received from Councillor H M Morris.

#### 16 **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 V M Evans – Personal – Minute no. 18 - Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Private Hire Vehicle, Skoda Octavia, Registration Mark GN10 GAX – Mr D Jones. Mr D Jones is known to me. Councillor V M Evans left the meeting prior to consideration of the item.

Councillor P Lloyd – Personal – Minute no. 18 - Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Private Hire Vehicle, Skoda Octavia, Registration Mark GN10 GAX – Mr D Jones. Mr D Jones is known to me. Councillor P Lloyd left the meeting prior to consideration of the item.

#### 17 **MINUTES:**

**RESOLVED** that the minutes of the General Licensing Committee held on 12 June, 2015, be agreed as a correct record.

18 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A PRIVATE HIRE VEHICLE, SKODA OCTAVIA, REGISTRATION MARK GN10 GAX - MR D JONES.**

The Divisional Licensing Officer advised Mr D Jones had failed to attend the meeting.

The Divisional Licensing Officer advised that an application for a private hire vehicle licence had been received from Mr D Jones. The vehicle was a white Skoda Octavia type, Registration Mark GN10 GAX and was capable of carrying 4 passengers.

Members' noted the Inspections and Documents, Department of Transport Taxi and Private Hire Licensing: Best Practice Guidance: March 2010; and Legislation relating to the Licensing of Private Hire Vehicles.

**RESOLVED** that:

- a. The matter be dealt with in the absence of Mr D Jones; and
- b. the application made by Mr D Jones for a Private Hire Vehicle Licence in respect of the Skoda Octavia type, Registration Mark GN10 GAX be **GRANTED** and renewed on merit.

19 **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)**

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

The Divisional Licensing Officer detailed the background information in respect of SLP.

SLP outlined the background details and circumstances and answered Members' questions.

**RESOLVED** that SLP's request for the grant of a hackney carriage and private hire driver's licence be **GRANTED**.

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

The Divisional Licensing Officer detailed the background information in respect of SJM.

SJM, accompanied by his partner and Mr Cutajar, Swallow Cabs outlined the background details and circumstances and answered Members' questions.

**RESOLVED** that SJM's request for the grant of 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**

- a. SJM presented at Committee as vulnerable.
- b. The Committee noted a history of change of addresses meaning there was no address for the purposes of regulation and a history of not being contactable. This had resulted in him driving a taxi for a period of time without holding a DVLA licence and summonses not being received by him. SJM is currently using a c/o address being Mr Cutajar's office address.
- c. SJM displayed an inability to recollect details sought by the Committee, regarding offences committed.
- d. SJM indicated a difficulty expressing himself and was illiterate. There were concerns over mail not being adequately dealt with and SJM's ability to act to the standard required for a taxi driver.
- e. While licenced SJM had received 3 warning letters for same enforcement issue which did not result in any change of behaviour.
- f. Incident in para no 13 raised concerns as to suitability, clearly must have been a serious argument to warrant removal by police for him to "calm down" overnight in a police cell. Further aggravated by the fact SJM stated he refused to vacate cell when requested to by the police and was then bound over. There was a clear failure to comply with a reasonable request by police.

22 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT  
(MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND  
PRIVATE HIRE DRIVER LICENCE - VR.**

The Divisional Licensing Officer detailed the background information in respect of VR.

VR, accompanied by Mr Havard, Killay, Sketty and Station Cabs outlined the background details and circumstances and answered Members' questions.

**RESOLVED** that VR be issued with a final warning letter regarding future conduct.

The meeting ended at 11.29 am

**CHAIR**



**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**14<sup>TH</sup> AUGUST 2015**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**VOLKSWAGEN PASSAT, REGISTRATION MARK BT03 JTY**  
**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. Mr Jones wishes to use the restricted private hire vehicle, if licensed, for the purposes of school transport, airport travel and or executive hire only.
- 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 Volkswagen Passat type vehicle. The vehicle was first registered on 12<sup>th</sup> June 2003 and is therefore 12 years and 2 months old. The registration of the vehicle is BT03 JTY and is capable of carrying 4 passengers.

**Inspections and Documents**

- 2.2 The vehicle passed the Council's inspection at CTU on 14<sup>th</sup> July 2015 and the mileage recorded at this time was 129,780 miles.
- 2.3 Mr Jones has supplied the full service history for the vehicle and an up to date vehicle history check, both of which are satisfactory.
- 2.4 A Licensing Officer also inspected the vehicle on 14<sup>th</sup> July 2015 at the Civic Centre where the vehicle was considered to be of suitable standard for licensing as a restricted private hire vehicle.

- 2.5 Members are therefore being asked to consider whether the Volkswagen Passat, Registration Number, BT03 JTY is suitable for licensing as a restricted private hire vehicle.

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

- 3.1 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.”*

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

- 4.1 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.

4.2 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.

## **5. RECOMMENDATION**

- 5.1 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 Volkswagen Passat, registration mark BT03 JTY and that this licence is renewed on merit. OR
- b. Refuse Mr Jones a restricted Private Hire Vehicle licence in respect of the Volkswagen Passat, registration mark BT03 JTY 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:** Richard Jenkins

**Extension:** 5600

**Legal Contact:** Kath Clague

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**14<sup>TH</sup> AUGUST 2015**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**ROVER 55, REGISTRATION MARK BF51 KYU**  
**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. Mr Jones wishes to use the restricted private hire vehicle, if licensed, for the purposes of school transport, airport travel and or executive hire only.
- 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 Rover 75 type vehicle. The vehicle was first registered on 1<sup>st</sup> September 2001 and is therefore 13 years and 11 months old. The registration of the vehicle is BF51 KYU and is capable of carrying 4 passengers.

**Inspections and Documents**

- 2.2 The vehicle passed the Council's inspection at CTU on 21st July 2015 and the mileage recorded at this time was 130,387 miles.
- 2.3 Mr Jones has supplied the available service history for the vehicle and an up to date vehicle history check all of which are satisfactory.
- 2.4 A Licensing Officer also inspected the vehicle on 20<sup>th</sup> July 2015 at the Civic Centre where the vehicle was considered to be of suitable standard for licensing as a restricted private hire vehicle.

- 2.5 Members are therefore being asked to consider whether the Rover 75, Vehicle Registration Number, BF51 KYU is suitable for licensing as a restricted private hire vehicle.

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

- 3.1 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.”*

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

- 4.1 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.

4.2 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.

## **5. RECOMMENDATION**

- 5.1 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 Rover 75, vehicle registration mark BF51 KYU and that this licence is renewed on merit. OR
- b. Refuse Mr Jones a restricted Private Hire Vehicle licence in respect of the Rover 75, vehicle registration mark BF51 KYU 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



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

### General Licensing Committee – 14 August 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>
	7, 8 & 9	12, 13 & 18
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	Patrick Arran – Head of Legal, Democratic Services and Procurement (Monitoring Officer)	

## 1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

## 2. Exclusion of the Public / Public Interest Test

- 2.1 In order to comply with the above mentioned legislation, **Council / Cabinet / Committee** will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involve(s) the likely disclosure of

exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

### **3. Financial Implications**

- 3.1 There are no financial implications associated with this report.

### **4. Legal Implications**

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
  - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
  - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
  - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

**Background Papers:** None

## Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
<b>12</b>	<b>Information relating to a particular individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. His view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. His view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. His view on the public interest test was that:</p> <p>a) Whilst he was mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</p> <p>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>15</b>	<b>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the</b>

	<b>Crown and employees of, or office holders under, the authority.</b>
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. His view on the public interest test was that whilst he is mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them he was satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
<b>16</b>	<b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b>
	No public interest test.
<b>17</b>	<b>Information which reveals that the authority proposes:</b> <b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b> <b>(b) To make an order or direction under any enactment.</b>
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
<b>18</b>	<b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b>
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
<b>18c</b>	The deliberations of a Standards Committee or of a sub committee of a Standards Committee established under the provisions of the Local Government Act 2000 in reaching any finding of a matter referred to it.

# Agenda Item 7

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

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

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# Agenda Item 8

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

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# Agenda Item 9

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

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