

# 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, 11 September 2015

**Time:** 10.00 am

## AGENDA

Page No.

- |          |  |                |
|----------|--|----------------|
| <b>1</b> | <b>Apologies for Absence.</b>  |                |
| <b>2</b> | <b>Disclosures of Personal and Prejudicial Interest.</b>   | <b>1 - 2</b>   |
| <b>3</b> | <b>Minutes:</b><br>To approve and sign as a correct record the minutes of the: <ul style="list-style-type: none"><li>• General Licensing Committee held on 14 August, 2015; and</li><li>• Special General Licensing Committee held on 21 August, 2015.</li></ul> | <b>3 - 11</b>  |
| <b>4</b> | <b>Local Government (Miscellaneous Provisions) Act 1976 - Application to Licence a Restricted Private Hire Vehicle, Ford Galaxy, Registration Mark WA06 NFC - Mr D Jones.</b>  | <b>12 - 16</b> |
| <b>5</b> | <b>Exclusion of the Public.</b>  | <b>17 - 20</b> |
| <b>6</b> | <b>Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver's Licence - DP.</b>  | <b>21 - 32</b> |
| <b>7</b> | <b>Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence - AM.</b>  | <b>33 - 37</b> |
| <b>8</b> | <b>Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence - Licence Number - KDO.</b>  | <b>38 - 42</b> |



**Patrick Arran**  
**Head of Legal, Democratic Services & Procurement**  
**Friday, 4 September 2015**

---

**Contact: Democratic Services – Tel: (01792) 636923**

---

**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
-------------------	------------

**Independent Councillor: 1**

Keith E Marsh	
---------------	--

**Conservative Councillor: 1**

Anthony C S Colburn	
---------------------	--

**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 MEETING OF THE GENERAL LICENSING COMMITTEE

HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA  
ON FRIDAY 14 AUGUST 2015 AT 10.00 A.M.

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

**Councillor(s):**

D W Cole  
A M Cook  
J P Curtice

**Councillor(s):**

P Downing  
V M Evans  
P Lloyd

J E Marsh  
H M Morris

**Officers:**

L Anthony - Divisional Licensing Officer  
K Thomas - Licensing Officer  
R Jenkins - Licensing Officer  
K Clague - Lawyer  
J Parkhouse - Democratic Services Officer

23. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors A C S Colburn and C L Philpott.

24. **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 - Minute Nos. 26 and 27 - I know the applicant as he works in my Ward - personal and prejudicial and left the meeting prior to discussion on these items.

Councillor P Lloyd - Minute Nos. 26 and 27 - I know the applicant as he works in my Ward - personal and prejudicial and left the meeting prior to discussion on these items.

25. **MINUTES**

**RESOLVED** that the Minutes of the General Licensing Committee Meeting held on 10 July 2015 be approved as a correct record.

26. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE - VOLKSWAGEN PASSAT, REGISTRATION MARK BT03 JTY - MR D JONES**

The Divisional Licensing Officer advised that an application to license a restricted private hire vehicle had been received from Mr D Jones. The vehicle was a Volkswagen Passat, registration mark BT03 JTY and was capable of carrying four passengers. The vehicle did not comply with the current licensing criteria set out by the Authority due to its age and Mr Jones wished to use the restricted private hire vehicle, if licensed, for the purposes of school transport, airport travel and/or executive hire only.

Members noted the inspections and documents, Department of Transport, Taxi and Private Hire Licensing: Best Practice Guidance: March 2010; and the legislation relating to the licensing of private hire vehicles.

Members asked questions of Mr D Jones who responded accordingly.

**RESOLVED** that the application made by Mr D Jones for a restricted private hire vehicle licence in respect of the Volkswagen Passat, vehicle registration mark BT03 JTY **BE GRANTED** and renewed on merit.

27. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE - ROVER 75, REGISTRATION MARK BF51 KYU - MR D JONES**

The Divisional Licensing Officer advised that an application for a restricted private hire vehicle licence had been received from Mr D Jones. The vehicle was a blue Rover 75 type vehicle, registration mark BF51 KYU and was capable of carrying four passengers.

Members noted the inspections and documents, Department of Transport, Taxi and Private Hire Licensing: Best Practice Guidance: March 2010; and the legislation relating to the licensing of private hire vehicles.

Members asked questions of Mr D Jones who responded accordingly.

**RESOLVED** that the application made by Mr D Jones for a restricted private hire vehicle licence in respect of the Rover 75, vehicle registration mark BF51 KYU **BE GRANTED** and renewed on merit.

28. **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/they 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)**

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

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

SS, accompanied by Mr Warren (Solicitor) outlined the background details and circumstances relating to the offences and answered members' questions.

**RESOLVED** that SS's application to renew his hackney carriage and private hire driver's licence **BE REFUSED** under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, "any other reasonable cause" and that no further action be taken against SS's vehicle licence number 7037.

**Reason for Decision**

Members were not satisfied that SS is a fit and proper person to hold a HC/PHV driver's licence:

- a) Whilst the complainant did not attend the committee meeting for the reasons given in her email to licencing officers, she did provide a detailed witness statement, which was supported by the video clip produced as exhibit ELR1 and by the written account given by her friend. The fact that the complainant felt it necessary to record part of the journey and stay in

Minutes of the Meeting of the General Licensing Committee  
(14.08.2015) Cont'd

contact with her friend throughout indicated that she was concerned about the actions of SS and lent weight to her account that it was SS who suggested they 'go for a drive'.

- b) In contrast, the account given by SS to Committee both orally and in his written statement was not consistent with the video evidence. SS accepted the transcript of the video evidence as accurate, save that in the penultimate line SS did not think the complainant said 'this is weird', but that she said 'full whack'. The transcript showed that the complainant told SS where she lived, and SS accepted that this occurred early on in the journey, specifically, as they were passing the university on the way out of the City, i.e. before driving down to Caswell Bay. At the very latest, SS had the opportunity at this point to take the complainant home and should have done so. Members did not accept SS' evidence that the complainant wanted to go for a drive. It was clear from the words used by SS in the video that the suggestion to go for a drive came from SS.
- c) Members did not feel that SS gave a truthful account of what occurred that night. Whilst there were some inconsistencies in the accounts given by both SS (as between his evidence and the video evidence) and the complainant (her evidence and the information received from the police), the balance favoured the complainant's evidence.
- d) Even on SS' own account he acted inappropriately in responding to the alleged flirting of the complainant and in responding to her allegedly kissing him. Members did not feel that SS demonstrated a full appreciation of this.
- e) As a taxi driver SS is in a position of responsibility and trust and will often come into contact with vulnerable people. The complainant was a lone female in his taxi in the early hours of the morning. She had clearly been drinking. SS abused his position. His conduct was so serious as to justify a refusal to renew his driver's licence.

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

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

SJM outlined the background details and circumstances relating to the offences and answered members' questions.

**RESOLVED** that SJM's application for a restricted hackney carriage and private hire driver's licence **BE APPROVED**.



Minutes of the Meeting of the General Licensing Committee  
(14.08.2015) Cont'd

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

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

WTH outlined the background details and circumstances relating to the offences and answered members' questions.

**RESOLVED** that WTH's application for a hackney carriage and private hire driver's licence **BE APPROVED** and WTH be issued with a warning letter setting the standards expected of hackney carriage and private hire drivers licensed with the City and County of Swansea in relation to future conduct.

The meeting ended at 12.05 p.m.

**CHAIR**

## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE SPECIAL GENERAL LICENSING COMMITTEE

HELD AT COMMITTEE ROOM 1, CIVIC CENTRE, SWANSEA ON  
FRIDAY, 21 AUGUST 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	T H Rees
D W Cole	P Lloyd	V M Evans
A M Cook	K E Marsh	
J P Curtice	C L Philpott	

#### **Officers:**

L Anthony	-	Divisional Licensing Officer
R Jenkins	-	Licensing Officer
L Thomas	-	Senior Lawyer
G James	-	Fleet Engineer, Environment
D Picken	-	Divisional Trading Standards Officer
I McCaffery	-	Licensing Officer - Trading Standards
J Parkhouse	-	Democratic Services Officer

#### 32 **APOLOGIES FOR ABSENCE.**

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

#### 33 **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 - Minute No. 34 - I know the applicant - personal and prejudicial and left the meeting prior to discussions regarding this item.

Councillor P Lloyd - Minute No. 34 - I know the applicant - personal and prejudicial and left the meeting prior to discussions regarding this item.

#### 34 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENSE A RESTRICTED PRIVATE HIRE VEHICLE, RENAULT MASTER, REGISTRATION MARK - YK04 PRJ - MR L JONES.**

The Divisional Licensing Officer advised that an application to licence a restricted private hire vehicle had been received from Mr L Jones. The vehicle was a Renault Master, registration mark YK04 PRJ and was capable of carrying eight passengers. The vehicle did not comply with the current licensing criteria set out by the Authority

due to its age and Mr Jones wished to use the restricted private hire vehicle, if licensed, for the purposes of school transport and airport transport only.

Members viewed the vehicle.

Members noted the inspections and documents, Department of Transport, Taxi and Private Hire Licensing: Best Practice Guidance: March 2010; and the 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 Renault Master, registration mark YK04 PRJ for the purposes of airport travel and school contracts **BE GRANTED** and that the licence be renewed on merit.

### 35 **USE OF TEMPORARY REPAIR KITS**

The Divisional Licensing Officer presented a report which requested the Committee considers authorising Licensing Officers to grant licenses for hackney carriage and private hire vehicles where they are manufactured without provision for a spare wheel or have been supplied without a spare wheel and are supplied with a temporary repair kit.

It was added that all licensed vehicles were required to have a spare wheel, including a skinny spare and a space saver spare or be fitted with run flat tyres. Many vehicles were now supplied with a tyre sealant and tyre inflation packs as an alternative to a spare wheel and in many of these cases, the customer does not have the choice of a spare wheel due to the configuration of design space of the model itself. Post puncture sealant products provided a temporary repair and were not considered as a permanent repair. The post- puncture sealant products also had a shelf life (marked on the containers), a date beyond which their effectiveness diminished.

Due to the changes being made by vehicle manufacturers, an increasing number of vehicles were being presented for licensing without a spare wheel. The Authority's Central Transport Unit had also advised that an increasing number of vehicles were being supplied without a spare wheel of any type and that temporary repair kits were being provided as an acceptable alternative temporary repair.

The Committee considered the information contained within the report.

**RESOLVED** that Officers of the Licensing Section be authorised to grant a vehicle licence for a vehicle provided with a temporary repair kit in place of a spare wheel, subject to the following conditions being attached to the licence:

- (i) vehicles approved for the use of a temporary repair kit in place of a spare wheel will be equipped with a repair kit at all times for use in accordance with the manufacturer's guidelines. Where the temporary

repair kit is used it shall immediately be replaced with another temporary repair kit;

- (ii) where a puncture does occur, proprietors and drivers shall seek alternative arrangements for continuation of the passenger's journey before utilising the temporary repair kit;
- (iii) vehicles that utilise a temporary repair kit in order to complete a hiring shall be used in accordance with the manufacturer's guidelines and not be used for any further hiring until the wheel or tyre had been replaced;
- (iv) vehicle proprietors of vehicles that utilise a temporary repair kit will keep a record of the date and time the repair kit was last used in the vehicle at all times and will obtain and retain evidence that the wheel or tyre had been replaced. Such information will be readily available for Officers upon request.

36 **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/they 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)**

37 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - RENEWAL OF RESTRICTED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENSE - LICENCE NUMBER 8099 - ASO**

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

ASO, accompanied by Mr L Jones outlined the background details and circumstances in relation to the offences and answered members' questions.

**RESOLVED** that ASO's application to renew a restricted hackney carriage and private hire driver's licence **BE APPROVED** and ASO be issued with a final warning letter setting out the standards expected of hackney carriage and private hire drivers licensed with the City and County of Swansea in relation to future conduct.

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

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

JLF outlined the background details and circumstances relating to the offences and answered members' questions.

**RESOLVED** that JLF's application for a hackney carriage and private hire driver's licence **BE APPROVED** and JLF be issued with a warning letter setting out the standards expected of hackney carriage and private hire drivers licensed with the City and County of Swansea in relation to future conduct.

39 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 -  
SCHEDULE 4 - GS.**

The Divisional Licensing Officer, Trading Standards, detailed the background information in respect of GS.

Members asked questions of the Officer who responded accordingly.

GS outlined the background details and circumstances outlined in the report and answered Members' questions.

**RESOLVED** that GS's Outer Zone Street Trading Consent **BE REVOKED**.

**Reason**

The Committee found GS was an experienced trader with good knowledge of the regime and conditions to be complied with.

The Committee noted GS was granted the current consent affording him an opportunity to demonstrate he could comply but breaches occurred almost as soon as the new consent was granted.

GS had received letters and attended meetings and agreed to discipline the employee, but allowed further incidents to occur as outlined in the report.

The Committee felt every opportunity had been afforded to GS by Officers to adhere to the terms of this and previous consents and manage employees, but GS had failed to do so.

The Committee were therefore not satisfied going forward that GS would comply with the consent.

The meeting ended at 11.30 am

**CHAIR**

# Agenda Item 4

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

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,**  
**FORD GALAXY, REGISTRATION MARK WA06 NFC**  
**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 vehicle licence for a silver Ford Galaxy. The vehicle was first registered on 1<sup>st</sup> August 2006 and is therefore 9 years and 1 month old. The registration of the vehicle is WA06 NFC and is capable of carrying 6 passengers.

**The Purpose**

- 2.2 It is proposed that the vehicle will be used for School Transport, Airport Travel and or Executive Hire Only.

**Inspections and Documents**

- 2.3 The vehicle passed the Council's inspection at CTU on 20<sup>th</sup> August 2015 and the mileage recorded at this time was 147,121 miles.
- 2.4 Mr Jones has supplied dates of service checks carried out together with the recorded mileage on these dates from 10<sup>th</sup> November 2006 to 13<sup>th</sup> June 2012 and an up to date vehicle history check.

2.5 MOT history check for vehicle registration WA06 NFC:

Date of MOT	RECORDED MILEAGE
21/08/2009	64,345
23/09/2010	87,354
26/4/2012	125,364
28/11/2012	133,267
13/02/2013	133,354
15/10/2013	135,601
27/10/2014	140,199
26/5/2015	145,824

2.6 A Licensing Officer also inspected the vehicle on 20th August 2015 at the Civic Centre where the vehicle was considered to be of suitable standard for licensing as a restricted private hire vehicle.

3. **CURRENT LICENSING CRITERIA**

3.1 The Council's current age criteria states:

*"5. 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."*

3.2 Members are therefore being asked to consider whether the Ford Galaxy, Registration Number, WA06 NFC is suitable for licensing as a restricted private hire vehicle.

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 WA06 NFC 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 WA06 NFC 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:** Aled Gruffydd

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

### General Licensing Committee – 11 September 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>
	6, 7 & 8	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 6

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

Document is Restricted

# Agenda Item 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.

Document is Restricted



# Agenda Item 8

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

Document is Restricted

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

Document is Restricted