

DINAS A SIR ABERTAWE

HYSBYSIAD O GYFARFOD

Fe'ch gwahoddir i gyfarfod

PWYLLGOR TRWYDDEDU CYFFREDINOL

Lleoliad: Ystafell Bwyllgor 3A, Neuadd y Ddinas, Abertawe

Dyddiad: Dydd Gwener, 9 Hydref 2015

Amser: 10.00 am

AGENDA

Rhif y Dudalen.

- 1 Ymddiheuriadau am absenoldeb.
- 2 Derbyn datgeliadau o fuddiannau personol a rhagfarnol. 1 - 2
- 3 Cofnodion: 3 - 5
Cymeradwyo a llofnodi cofnodion cyfarfod y Pwyllgor Trwyddedu Cyffredinol a gynhaliwyd ar 11 Medi 2015 fel cofnod cywir.
- 4 Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig - Ford Galaxy, Rhif Cofrestru AA02 MOL - Mr P. Eglitis. 6 - 11
- 5 Deddf Cyfrifoldebau Heddluoedd Trefol 1847 - Cais am amnewid ac adnewyddu Trwydded Cerbyd Hurio Preifat, Rhif Cofrestru SF53 BBJ - Mr S. Williams. 12 - 16
- 6 Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat, Ford Focus, Rhif Cofrestru WA59 AEL - Mr S. Williams. 17 - 21
- 7 Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig, Ford Transit, Rhif Cofrestru CP03 PBV - P.W. ac E.K. Harris Taxi Hire Ltd. 22 - 27
- 8 Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i Drwyddedu Cerbyd Hurio Preifat Cyfyngedig, Ford Transit, Rhif Cofrestru CV03 SFN - P.N. ac E.K. Harris Taxi Hire Ltd. 28 - 33
- 9 Deddf Dadreoleiddio 2015 - Newidiadau i Ffioedd Gyrwyr Tacsï a Hurio Preifat. 34 - 36
- 10 Gwahardd y cyhoedd. 37 - 40

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| 11 | Deddf Cydraddoldeb 2010 - Teithwyr mewn cadeiriau olwyn - Cais am Dystysgrif Eithrio - SG. | 41 - 44 |
| 12 | Deddf Cyfrifoldebau Heddluoedd Trefol 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Trwydded i Yrru Cerbydau Hacni a Hurio Preifat - ART. | 45 - 61 |
| 13 | Deddf Cyfrifoldebau Heddluoedd Trefol 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Trwydded i Yrru Cerbydau Hacni a Hurio Preifat - MNI. | 62 - 80 |



Patrick Arran
Pennaeth Gwasanaethau Cyfreithiol, Democrataidd a Chaffael
Dydd Gwener, 2 Hydref 2015

Cyswllt: Gwasanaethau Democrataidd - tel: (01792) 637292

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 3A, GUILDHALL, SWANSEA ON FRIDAY,
11 SEPTEMBER 2015 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)	Councillor(s)	Councillor(s)
A C S Colburn D W Cole J P Curtice	V M Evans P Lloyd	K E Marsh T H Rees

Officers:

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

40 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors A M Cook, C L Philpott, P Downing and H M Morris.

41 **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. 43 – Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Galaxy, Registration Mark WA06 NFC - 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 No. 43 - Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Galaxy, Registration Mark WA06 NFC - I know the applicant as he works in my Ward - personal and prejudicial and left the meeting prior to discussion on these items.

42 **MINUTES:**

RESOLVED that the minutes of:

- 1) General Licensing Committee held on 14 August, 2015 be agreed as a correct record subject to J E Marsh being amended to K E March; and

- 2) Special General Licensing Committee held on 21 August, 2015, be agreed as a correct record subject to an amendment to minute no.35 – Resolution ‘ temporary repair kit’ being amended to ‘temporary repair kit’.

43 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE, FORD GALAXY, REGISTRATION MARK WA06 NFC - 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 Ford Galaxy, registration mark WA06 NFC and was capable of carrying six 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 Ford Galaxy, vehicle registration mark WA06 NFC **BE GRANTED** and renewed on merit.

44 **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)

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

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

The Lawyer advising the Committee confirmed that the Driver's Licence was clean.

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

RESOLVED that:

- 1) DP's Hackney Carriage and Private Hire Driver's Licence application **BE GRANTED**; and
- 2) DP be issued with a strong warning letter regarding future conduct.

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

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

The Lawyer advising the Committee confirmed that the Driver's Licence was clean.

AM outlined the background details and circumstances relating to the offence and answered members' questions.

RESOLVED that:

- 1) AM be issued with a final warning regarding future conduct; and
- 2) no action be taken in respect of AM's Hackney Carriage Vehicle Licence.

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

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

The Lawyer advising the Committee confirmed that KDO had a clean Driver's Licence.

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

RESOLVED that:

- 1) KDO's Hackney Carriage/Private Hire Driver's Licence **BE RENEWED**; and
- 2) KDO be issued with a warning letter regarding future conduct.

The meeting ended at 10.50 am

CHAIR

Agenda Item 4

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
9th OCTOBER 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,
FORD GALAXY, REGISTRATION MARK AA02 MOL
MR PETER EGLITIS

1. **INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence has been received from Mr Peter Eglitis. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age. Mr Eglitis 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 17th 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 Eglitis wishes to apply for a restricted private hire vehicle licence for a black Ford Galaxy. The vehicle was first registered on 16th September 2003 and is therefore 12 years and 1 month old. The registration of the vehicle is AA02 MOL 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 15th September 2015 and the mileage recorded at this time was 218, 516 miles.
- 2.4 Mr Eglitis has supplied dates of service checks carried out together with the recorded mileage on these dates from December 2003 to November 2008 and Service History up to 213, 219 miles. He has also provided an up to date vehicle history check.

2.5 MOT history check for vehicle registration AA02 MOL:

Date of MOT	RECORDED MILEAGE
20/02/2006	81,409
10/02/2007	114,848
21/02/2008	142,963
16/02/2009	159,514
26/02/2010	167,853
22/02/2011	177,597
21/03/2012	183,927
01/05/2013	206,374
05/11/2014	216,322

2.6 On the 18th September 2015 a Licensing Officer also inspected the vehicle where the following issues were raised :

- * vehicle interior including headlining required a full valet ;
- * Spare wheel not secured in the rear boot of the vehicle;
- * Vehicle bonnet required works due to visible stone chips down to the metal.

2.7 In addition to the above information this vehicle was registered as a spare car with the City & County of Swansea from October 2003 to March 2006 during which time it received an annual inspection. Mr Eglitis has also confirmed that this vehicle was licensed as a hackney carriage with Carmarthenshire Council between July 2007 and September 2013.

2.8 Members are therefore asked to determine the suitability of the black Ford Galaxy vehicle registration mark AA02 MOL for licensing as a restricted private hire vehicle in Swansea.

2.9 Due to the issues raised by the Licensing Officer on 18th September 2015 and in order to assist Members in reaching their decision the vehicle will be available for inspection at the Guildhall on Friday, 9th October 2015.

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, AA02 MOL 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 Eglitis, Members determine whether to:

- a. Grant Mr Eglitis a restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration mark AA02 MOL and that this licence is renewed on merit. OR
- b. Refuse Mr Eglitis a restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration mark AA02 MOL 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 17th December 2014
Contact Officer: Richard Jenkins
Extension: 5600
Legal Contact: Aled Gruffydd

Agenda Item 5

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
9TH OCTOBER 2015

TOWN POLICE CLAUSES ACT 1847
APPLICATION FOR THE SUBSTITUTION AND RENEWAL OF A
HACKNEY CARRIAGE VEHICLE
LICENCE, REGISTRATION MARK SF53 BBJ
MR STEVEN WILLIAMS

1. **INTRODUCTION**

- 1.1 An application for the substitution and renewal of a hackney carriage vehicle licence has been received from Mr Williams. The vehicle is a black Peugeot Expert Registration Mark SF53 BBJ and is capable of carrying 7 passengers.
- 1.2 At the General Licensing Committee of 17th 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. **BACKGROUND**

- 2.1 On 18th March 2015 Mr Williams telephoned the Licensing Division and informed an Officer that his hackney carriage vehicle, a black Peugeot Expert vehicle registration mark SA58 UKT had just gone on fire whilst parked outside his home. This vehicle was first registered on 21st October 2008 and is therefore 6 years and 11 months old. The hackney carriage vehicle licence expired on 30th September 2015.
- 2.2 Mr Williams has kept the Licensing Office up to date in respect of the progress of his insurance claim and his intentions to replace the fire damaged vehicle.

3. **CURRENT APPLICATION**

- 3.1 On 26th August 2015 Mr Williams attended the Civic Centre and requested that the Licensing Section inspect a black Peugeot Expert, vehicle registration mark SF53 BBJ with a view to licensing the vehicle as a replacement for his fire damaged vehicle.

During the inspection the following faults were recorded with the vehicle presented:

- * Front bonnet required repair;
- * Rear off side brake light flickering when the indicator is working;
- * General appearance of the vehicle;
- * Rear door hinges;
- * Off side parking mirror not secure;
- * Interior of the vehicle requires valeting;
- * Window catch on the off side rear door;
- * No seat belt for rear double flip down seat;
- * No internal door handles to the inside of both near and off side rear doors;
- * Unable to use the wheelchair user strap extension;
- * Floor covering in drivers foot well.

3.2 On 15th September 2015 the vehicle, SF53 BBJ attended for a Council inspection and the following faults were recorded:

- * Rear engine oil leak;
- * Near side rear door not closing tight;
- * Spare wheel flat and wrong size.

3.3 On 16th September 2015 the vehicle, SF53 BBJ passed the Council inspection and a subsequent Licensing Officer's inspection as all faults had been rectified. The mileage recorded at this time was 242,286 miles.

3.4 On 23rd September 2015 the Licensing Section noted that the recorded mileage on the vehicle was 242,286 miles at the time of the last MOT documentation in July 2015 and the Council tests carried out in September 2015. Mr Williams was contacted by an Officer regarding the recorded mileage of 242,286 miles and requested that the vehicle speedo be checked and confirmed in working order.

3.5 Mr Williams has now confirmed that the vehicle speedo sensor had been faulty but this had now been repaired.

3.6 On 28th September 2015 the vehicle was presented at the Civic Centre and the speedo and meter was checked by a Licensing Officer. Both the speedo and the meter were correct.

4. THE VEHICLE HISTORY

4.1 The vehicle, SF53 BBJ was first registered on 11th September 2003 and is therefore 12 years and 1 month old.

4.2 Mr Williams has provided an up to date vehicle history check but has not provided full service history for the vehicle, however telephone confirmation has been received in the Licensing Division from an

Officer in Pembroke Council that the vehicle was licensed as a hackney carriage vehicle with their Authority from May 2013 to May 2015.

- 4.3 The available MOT history check for the vehicle registration SF53 BBJ is as follows:

DATE OF MOT	RECORDED MILEAGE
12/08/2005	45,471 miles
19/09/2006	65,000 miles
11/06/2007	82,212 miles
06/02/2008	92,022 miles
05/02/2009	113,704 miles
12/03/2009	116,659 miles
28/09/2009	132,298 miles
28/08/2010	153,298 miles
28/09/2011	169,667 miles
02/10/2012	190,039 miles
09/05/2013	197,769 miles
28/04/2014	229,777miles
17/07/2015	242,286 miles

5. **CURRENT CONSIDERATIONS**

- 5.1 Members are therefore being asked to consider whether the Peugeot Expert, vehicle registration mark SF53 BBJ is suitable for licensing as a hackney carriage vehicle in Swansea.
- 5.2 Due to the issues identified in the report and in order to assist Members in reaching their decision the vehicle will be available for inspection at the Guildhall on Friday 9th October 2015.

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

- 6.1 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.

7. **CURRENT HACKNEY CARRIAGE VEHICLE POLICY**

7.1 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.

7.2 The policy was adopted by Swansea City Council in March 1985 and by the City and County of Swansea in 1996.

7.3 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;

7.4 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.

7.5 The Council's age policy has been challenged since its implementation by way of Judicial Review in 1995.

7.6 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.

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

8.1 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.

8.2 The decision of the Licensing Committee was that any individual requests would be considered on merit should they arise.

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

9. **RECOMMENDATION**

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

- i) grant the application made by Mr Williams to substitute and renew the hackney carriage vehicle licence in respect of the Peugeot Expert vehicle registration mark SF53 BBJ; or
- ii) refuse the application made by Mr Williams to substitute and renew the hackney carriage vehicle licence in respect of the Peugeot Expert vehicle registration mark SF53 BBJ 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:	Aled Gruffydd

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
9th OCTOBER 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A PRIVATE HIRE VEHICLE, FORD FOCUS,
REGISTRATION MARK WA59 AEL
MR STEVEN WILLIAMS

1. INTRODUCTION

- 1.1 An application for a private hire vehicle licence has been received from Mr Steven Williams. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age.
- 1.2 At the General Licensing Committee of 17th 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 Williams wishes to apply for a private hire licence for a White Ford Focus. The vehicle was first registered on 1st September 2009 and is therefore 6 years and 1 month old. The registration mark of the vehicle is WA59 AEL and is capable of carrying 4 passengers.

Inspections and Documents

- 2.2 The vehicle passed the Council's inspection at CTU on 16th September 2015 and the mileage recorded at this time was 160,463 miles.
- 2.3 Mr Williams has supplied dates of service checks carried out together with the recorded mileage on these dates from March 2009 to September 2013 and Service History up to 128,208 miles. Mr Williams has also supplied an up to date vehicle history check for the vehicle which is satisfactory.

- 2.4 The available MOT history check for the vehicle registration WA59 AEL is as follows:

DATE OF MOT	RECORDED MILEAGE
19/09/2013	128936
29/10/2013	129031
15/05/2015	159923

- 2.5 The vehicle was also inspected by a Licensing Officer on 15th September 2015 at the Civic Centre where it was noted that a window handle was required for the rear off side door.
- 2.6 The vehicle was again inspected by a Licensing Officer on 28th September 2015 whereupon it was noted that a new window handle had been fitted and is now a satisfactory standard for licensing as a private hire vehicle.
- 2.7 Members are therefore being asked to consider whether the Ford Focus, Registration Number, WA59 AEL is suitable for licensing as a 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 Williams, Members determine whether to:
- a. Grant Mr Williams a Private Hire Vehicle licence in respect of the Ford Focus, registration mark WA59 AEL and that this licence is renewed on merit. OR
 - b. Refuse Mr Williams a Private Hire Vehicle licence in respect of the Ford Focus, registration mark WA59 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 17th December 2014

Contact Officer: Kath Thomas

Extension: 5600

Legal Contact: Aled Gruffydd

Agenda Item 7

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
9TH OCTOBER 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,
FORD TRANSIT, REGISTRATION MARK CP03 PBV
P.W. & E.K. HARRIS TAXI HIRE LTD

1. INTRODUCTION

- 1.1 An application for a restricted private hire vehicle licence has been received from P.W. & E.K. Harris Taxi Hire Ltd. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age, only having one door on the off side of the vehicle and signage which is displayed on the front, rear and sides of the vehicle.
- 1.2 At the General Licensing Committee of 17th 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 P.W. & E.K. Harris Taxi Hire Ltd wishes to apply for a restricted private hire licence for a yellow Ford Transit vehicle. The vehicle was first registered on 19th June 2003 and is therefore 12 years and 4 months old. The registration of the vehicle is CP03 PBV and is capable of carrying 7 passengers which includes two wheelchairs.

The Purpose

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

Inspections and Documents

- 2.3 The vehicle passed the Council's inspection at CTU on 23rd September 2015 and the mileage recorded at this time was 183,188 miles.
- 2.4 P.W. & E.K. Harris Taxi Hire Ltd has supplied a HPI check for the vehicle which is satisfactory. Details of the service history in respect of vehicle registration mark CP03 PBV are to be supplied at Committee.

- 2.5 The current MOT for this vehicle was carried out on 1st December 2014 and the recorded mileage was 172,666 miles.
- 2.6 A Licensing Officer also inspected the vehicle on 23rd September 2015 at the Civic Centre when it was noted that the vehicle had only one door on the off side and signage which is displayed on the front side and rear of the vehicle which does not comply with the Council Advertising Guidelines.

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 The Council's current vehicle specification states:

"9. All vehicles must be right hand drive and have 2 doors each side of the vehicle. All passengers shall have access to a door capable of being opened from inside the vehicle."

- 3.3 Whilst this vehicle is specially adapted and has the benefit of a rear lift, the off side of the vehicle only has one door.

- 3.4 The Council's current advertising guidance states:

"29. Restricted Private Hire Vehicle may advertise the business of the company/person who holds the licence for the vehicle. No other fittings, signs or advertisements except those approved by the Council or its authorised officers in accordance with the guidelines listed below shall be attached to the inside or outside of the vehicle.

29(h). Any advertisement approved shall be placed on the back passenger doors only, below the windows.

Any company logo, advertising the Operator's or Proprietors own taxi or private hire business, which has been approved in accordance with condition 29(d) above, may be displayed on the front bonnet, rear of the vehicle and/or on the back passenger doors only."

- 3.5 Members are therefore being asked to consider whether the Ford Transit, Registration Number, CP03 PBV is suitable for licensing as a restricted private hire vehicle for the purposes of school contracts only.

- 3.6 Due to the issues identified in the report and in order to assist Members in reaching their decision, the vehicle will be available for inspection at the Guildhall on Friday, 9th October 2015.

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

(b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this sub-section, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates’.

- (3) In every vehicle licence granted under this section there shall be specified—

- (a) the name and address of –

- (i) the applicant; and
 - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
- (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
- (c) the conditions attached to the grant of a 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 P.W & E.K Harris Taxi Hire Ltd, Members determine whether to:

- a. Grant P.W & E.K Taxi Hire Ltd a Restricted Private Hire Vehicle licence in respect of the Ford Transit, registration mark CP03 PBV for the purposes of school contracts and that this licence is renewed on merit. OR
- b. Refuse P.W & E.K Harris Taxi Hire Ltd a Restricted Private Hire Vehicle licence in respect of the Ford Transit, registration mark CP03 PBV 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 17th December 2014
Contact Officer: Kath Thomas
Extension: 5600
Legal Contact: Aled Gruffydd

Agenda Item 8

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
9TH OCTOBER 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,
FORD TRANSIT, REGISTRATION MARK CV03 SFN
P.W. & E.K. HARRIS TAXI HIRE LTD

1. INTRODUCTION

- 1.1 An application for a restricted private hire vehicle licence has been received from P.W. & E.K. Harris Taxi Hire Ltd. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age, only having one door on the off side of the vehicle and signage which is displayed on the front, rear and sides of the vehicle.
- 1.2 At the General Licensing Committee of 17th 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 P.W. & E.K. Harris Taxi Hire Ltd wishes to apply for a restricted private hire licence for a yellow Ford Transit vehicle. The vehicle was first registered on 27th March 2003 and is therefore 12 years and 7 months old. The registration of the vehicle is CV03 SFN and is capable of carrying 7 passengers which includes two wheelchairs.

The Purpose

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

Inspections and Documents

- 2.3 The vehicle passed the Council's inspection at CTU on 9th September 2015 and the mileage recorded at this time was 196,243 miles.
- 2.4 P.W. & E.K. Harris Taxi Hire Ltd has supplied a HPI check for the vehicle which is satisfactory. Details of the service history in respect of vehicle registration mark CV03 SFN are to be supplied at Committee.

- 2.5 The current MOT for this vehicle was carried out on 22nd August 2015 and the recorded mileage was 196,051 miles.
- 2.6 A Licensing Officer also inspected the vehicle on 23rd September 2015 at the Civic Centre when it was noted that the vehicle had only one door on the off side and signage which is displayed on the front, sides and rear of the vehicle which does not comply with the Council Advertising Guidelines.

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 The Council's current vehicle specification states:

"9. All vehicles must be right hand drive and have 2 doors each side of the vehicle. All passengers shall have access to a door capable of being opened from inside the vehicle."

- 3.3 Whilst this vehicle is specially adapted and has the benefit of a rear lift, the off side of the vehicle only has one door.

- 3.4 The Council's current advertising guidance states:

"29. Restricted Private Hire Vehicle may advertise the business of the company/person who holds the licence for the vehicle. No other fittings, signs or advertisements except those approved by the Council or its authorised officers in accordance with the guidelines listed below shall be attached to the inside or outside of the vehicle.

29(h). Any advertisement approved shall be placed on the back passenger doors only, below the windows.

Any company logo, advertising the Operator's or Proprietors own taxi or private hire business, which has been approved in accordance with condition 29(d) above, may be displayed on the front bonnet, rear of the vehicle and/or on the back passenger doors only."

- 3.5 Members are therefore being asked to consider whether the Ford Transit, Registration Number, CP03 PBV is suitable for licensing as a restricted private hire vehicle for the purposes of school contracts only.

- 3.6 Due to the issues identified in the report and in order to assist Members in reaching their decision, the vehicle will be available for inspection at the Guildhall on Friday, 9th October 2015.

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

(b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this sub-section, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates’.
- (3) In every vehicle licence granted under this section there shall be specified—

- (a) the name and address of—
 - (i) the applicant; and
 - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
- (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
- (c) the conditions attached to the grant of the licence; and
- (d) Such other particulars as the district council consider reasonably necessary.
- (4) Every licence granted under this section shall -
 - (a) be signed by an authorised officer of the council which granted it;
 - (b) relate to not more than one private hire vehicle; and
 - (c) remain in force for such period not being longer than one year as the district council may specify in the licence.
- (5) Where a district council grant under this section a vehicle licence in respect of a private hire vehicle they shall issue a plate or disc identifying that vehicle as a private hire vehicle in respect of which a vehicle licence has been granted.
- (6)
 - (a) Subject to the provisions of this Part of this Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the grant of the licence.
 - (b) If any person without reasonable excuse contravenes the provisions of this subsection he shall be guilty of an offence.

(7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.

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 P.W & E.K Harris Taxi Hire Ltd, Members determine whether to:

- a. Grant P.W & E.K Taxi Hire Ltd a Restricted Private Hire Vehicle licence in respect of the Ford Transit, registration mark CV03 SFN for the purposes of school contracts and that this licence is renewed on merit. OR
- b. Refuse P.W & E.K Harris Taxi Hire Ltd a Restricted Private Hire Vehicle licence in respect of the Ford Transit, registration mark CV03 SFN 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 17th December 2014
Contact Officer: Kath Thomas
Extension: 5600
Legal Contact: Aled Gruffydd

Agenda Item 9

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
9th OCTOBER 2015

DEREGULATION ACT 2015 – CHANGES TO TAXI AND PRIVATE HIRE
DRIVERS FEES

1.0 Background

- 1.1 The Deregulation Act 2015 received Royal Assent on 26th March 2015; one of the purposes of the Act is to make provision for the reduction in legislative burdens to businesses, organisations and individuals.
- 1.2 Section 10 and 11 of the Deregulation Act 2015 relate specifically to taxi and private hire licensing and the provision became effective from 1st October 2015.

2.0 Deregulation changes – Hackney Carriage and Private Hire Drivers

- 2.1 The Licensing Authority, under the Local Government (Miscellaneous Provisions) Act 1976, has the discretion to issue licences for drivers of hackney carriage and private hire vehicles for up to 3 years. However, most Licensing Authorities issue licences for a period of 1 year only to continually determine a driver's fitness and propriety.
- 2.2 Section 10 of the Deregulation Act 2015 amends Section 53 of the existing legislation and restricts the discretion currently available to the Licensing Authority to issue licences to drivers for less than 3 years.
- 2.3 Licences for a shorter duration will still be made available by the Licensing Authority but will be issued on a case by case basis 'as the district council think appropriate in the circumstances of the case'.
- 2.4 There is no further legislative guidance in relation to what the 'circumstances of the case' must be however current legal opinion suggests that the circumstances in which an annual licence may still be issued may include e.g. where Members have concerns over an applicant's criminal history or conduct; for medical reasons; to coincide with other application criteria requirements such as Disclosure and Barring Service (DBS) criminal history checks.
- 2.5 It is also suggested that a request by an applicant for a one year licence would also be hard to refuse especially in relation to financial concerns.

3.0 Current Considerations

- 3.1 Due to the changes made to the legislation and the need to provide the opportunity for 3 year licences, the Licensing Section has undertaken a review of the existing licensing processes and fees.
- 3.2 As a result of the review, a new fee structure has been developed which will allow the licensing authority to accurately recover the fees to cover the cost of administering the service.
- 3.3 A table detailing the current and proposed fees is provided in paragraph 4 of the report.
- 3.4 In order for officers to ensure the smooth transition of the procedural changes required consideration has been given to the proposed date of implementation of the new procedures and fees.
- 3.5 It is proposed that the increase in driver fees are agreed and take effect from 1st November 2015 for any grant applications made and 1st December 2015 in respect of renewal applications. This is to enable officers to determine whether or not it is appropriate to issue a licence for a 3 year period and to provide sufficient notice to applicants.

4.0 Proposed Fees

- 4.1 It is proposed that the fees for 1 and 3 year driver licences be set as follows to enable cost recovery in line with the legislation.

	Current	Proposed
Driver Grant 1 year (including restricted Driver)	£79.00 (Full) £67.00 (Restricted)	£124.00
Driver Grant 3 year (including restricted Driver)	N/A	£236.00
Driver Renewal 1 year (including Restricted Driver)	£67.00 (Full) £57.00 (Restricted)	£81.00

Driver Renewal 3 year (including Restricted Driver)	N/A	£191.00
Knowledge Test	N/A	£29.00

5.0 RECOMMENDATIONS

5.1 It is recommended that :

Members approve the proposed fee levels outlined in paragraph 4 and agree the date for implementation as 1st November 2015 for grant applications and the knowledge test fees; and 1st December 2015 for renewal applications.

The Licensing Committee's instructions are requested.

Background Papers: None
Contact Officer: Yvonne Lewis
Extension: 5600
Legal Contact: Aled Gruffydd

Report of the Head of Legal, Democratic Services & Procurement

General Licensing Committee – 9 October 2015

EXCLUSION OF THE PUBLIC

Purpose:	To consider whether the Public should be excluded from the following items of business.	
Policy Framework:	None.	
Reason for Decision:	To comply with legislation.	
Consultation:	Legal.	
Recommendation(s):	It is recommended that:	
1)	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	Item No.	Relevant Paragraphs in Schedule 12A
	11,12 & 13	12, 13 & 18
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Patrick Arran – Head of Legal, Democratic Services and Procurement (Monitoring Officer)	

1. Introduction

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

2. Exclusion of the Public / Public Interest Test

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

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

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

3. Financial Implications

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

4. Legal Implications

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

Background Papers: None

Public Interest Test

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

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

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 12

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Agenda Item 13

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