

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, 13 November 2015

Time: 10.00 am

AGENDA

Page No.

- | | | |
|----------|---|----------------|
| 1 | Apologies for Absence. | |
| 2 | Disclosures of Personal and Prejudicial Interest. | 1 - 2 |
| 3 | Minutes.
To approve and sign as a correct record the minutes of the:

1) General Licensing Committee held on 9 October, 2015; and
2) Special General Licensing Committee held on 23 October, 2015. | 3 - 12 |
| 4 | Town Police Clauses Act 1847 - Application for the Substitution and Renewal of a Hackney Carriage Vehicle Licence - Registration Mark SF53 BBJ - Mr S Williams. | 13 - 17 |
| 5 | Exclusion of the Public. | 18 - 21 |
| 6 | Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver's Licence - JM. | 22 - 33 |
| 7 | Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver's Licence - AJR. | 34 - 44 |

Date of Next Meeting.

Friday 11 December – 10am.



Patrick Arran
Head of Legal and Democratic Services
Thursday, 5 November 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
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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 – 24

Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

Councillors

Councillors Interests are made in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

NOTE: You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
 - i) Disclose orally both the interest concerned and the existence of the dispensation; and
 - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- 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,
9 OCTOBER 2015 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

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

Officers:

L Anthony	-	Divisional Licensing Officer
A Gruffydd	-	Lawyer
Y Lewis	-	Senior Licensing Officer
S Woon	-	Democratic Services Officer

48 **APOLOGIES FOR ABSENCE.**

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

49 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST.**

Councillor V M Evans - Minute No. 52 – Personal - Town Police Clauses Act 1847 – Local Government (Miscellaneous Provisions) Act 1976 – Hackney Carriage and Private Hire Drivers Licence – MNI - Reference to RMT Union, I am a member of RMT.

Councillor P Lloyd - Minute No. 53 – Personal and Prejudicial - Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Galaxy, Registration Mark AA02 MOL - I know the applicant. Councillor P Lloyd left the meeting prior to discussion on this item.

Councillor P M Matthews - Minute No. 53 – Personal and Prejudicial - Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Galaxy, Registration Mark AA02 MOL - I know the applicant. Councillor P M Matthews left the meeting prior to discussion on this item.

Councillor C L Philpott - Minute No. 56 – Personal and Prejudicial - Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Transit, Registration Mark CV03 PBV – P W & E K Harris Taxi Hire Ltd – Applicant could consider, due to a conversation prior to

Committee, that I may not be impartial. Councillor C L Philpott left the meeting prior to discussion on this item.

Councillor C L Philpott - Minute No. 57 – Personal and Prejudicial - Local Government (Miscellaneous Provisions) Act 1976 – Application to Licence a Restricted Private Hire Vehicle, Ford Transit, Registration Mark CV03 SFN – Applicant could consider, due to a conversation prior to Committee, that I may not be impartial. Councillor C L Philpott left the meeting prior to discussion on this item.

50 **MINUTES:**

RESOLVED that the minutes of the General Licensing Committee held on 11 September, 2015 be agreed as a correct record subject to K E March being amended to K E Marsh.

51 **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)

52 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE - MNI.**

The Lawyer advising the Committee stated that a written request for a deferral had been received from MNI.

Members' noted the reasons for the deferral and accepted the advice of the Lawyer.

RESOLVED that the matter would be deferred until 23 October, 2015, where it would be considered by a Special General Licensing Committee.

OPEN SESSION

COUNCILLOR P DOWING (VICE CHAIR) PRESIDED

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

Members inspected the vehicle.

The Divisional Officer, Licensing, Food & Safety, advised that an application to license a restricted private hire vehicle had been received from Mr P Eglitis. The vehicle was a black Ford Galaxy, registration mark AA02 MOL 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. Mr Eglitis wished to use the restricted private hire vehicle, if licensed, for the purposes of school transport, airport travel and/or executive hire only.

The Divisional Officer, Licensing, Food & Safety, reported that the vehicle did not possess a spare tyre or a puncture repair kit.

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 P Eglitis who responded accordingly. Mr P Eglitis apologised for the lack of spare tyre and explained the circumstances surrounding it.

RESOLVED that the application made by Mr P Eglitis for a restricted private hire vehicle licence in respect of the black Ford Galaxy, vehicle registration mark AA02 MOL **BE DELEGATED TO OFFICERS TO GRANT** pending the inclusion of the spare tyre and renewed on merit.

COUNCILLOR P M MATTHEWS (CHAIR) PRESIDED

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

Mr S Williams advised the Committee that there had been difficulties associated with taxing the vehicle and requested a deferral.

RESOLVED that the matter be deferred for consideration at the next Committee.

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

The Divisional Officer, Licensing, Food & Safety, advised that an application to licence a private hire vehicle had been received from Mr S Williams. The vehicle was a white Ford Focus 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.

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 S Williams who responded accordingly.

RESOLVED that the application made by Mr S Williams for a private hire vehicle licence in respect of the white Ford Focus, vehicle registration mark WA59 AEL **BE GRANTED** and renewed on merit.

56 **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.**

Members inspected the vehicle.

The Divisional Officer, Licensing, Food and Safety, advised that an application for a restricted private hire vehicle had been received from P W and E K Harris Taxi Hire Ltd. The vehicle was a yellow Ford Transit vehicle and was capable of carrying 7 passengers which included two wheelchairs.

The vehicle did not comply with the current licensing criteria set out by the Authority due to its age, only having one door on the off side of the vehicle and signage which was displayed on the front, rear and sides of the vehicle. Mr Harris wished to use the restricted private hire vehicle, if licensed, for the purposes of school transport 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 Harris who responded accordingly.

RESOLVED that the application made by Mr Harris for a restricted private hire vehicle licence in respect of the Ford Transit, vehicle registration mark CP03 PBV **BE REFUSED** under Section 48(a)(i) and (v) of Local Government (Miscellaneous Provisions) Act 1976.

Reason for Decision

The Committee were concerned regarding the signage and the dirty internal roof.

57 **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.**

Members inspected the vehicle.

The Divisional Officer, Licensing, Food and Safety, advised that an application for a restricted private hire vehicle had been received from P W and E K Harris Taxi Hire Ltd. The vehicle was a yellow Ford Transit vehicle and was capable of carrying 7 passengers which included two wheelchairs.

The vehicle did not comply with the current licensing criteria set out by the Authority due to its age, only having one door on the off side of the vehicle and signage which was displayed on the front, rear and sides of the vehicle. Mr Harris wished to use the restricted private hire vehicle, if licensed, for the purposes of school transport 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 Harris who responded accordingly.

RESOLVED that the application made by Mr Harris for a restricted private hire vehicle licence in respect of the Ford Transit, vehicle registration mark CP03 SFN **BE REFUSED** under Section 48(a)(i) and (v) of Local Government (Miscellaneous Provisions) Act 1976.

Reason for Decision

The Committee were concerned regarding the signage, and the dirty internal roof.

58 **DEREGULATION ACT 2015 - CHANGES TO TAXI AND PRIVATE HIRE DRIVERS FEES.**

The Divisional Officer, Licensing, Food and Safety detailed the background to the Deregulation Changes in respect of Hackney Carriage and Private Hire Drivers.

Members noted the current considerations and proposed fees.

Members asked questions of the Officer who responded accordingly.

RESOLVED that:

1. the proposed fee levels outlined in paragraph 4 be agreed;
2. the date for implementation be agreed as 1 November 2015 for grant applications and knowledge test fees; and
3. 1 December 2015 for renewal applications.

59 **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)

60 **EQUALITY ACT 2010 - PASSENGERS IN WHEELCHAIRS - REQUEST FOR AN EXEMPTION CERTIFICATE - SG.**

The Divisional Officer Licensing, Food & Safety, detailed the background information in respect of SG.

SG detailed the background details and circumstances of his request and answered Members' questions.

RESOLVED that SG's request for an exemption from carrying wheel chair users in his hackney carriage vehicle be **APPROVED** permanently.

61 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE - ART.**

The Divisional Officer Licensing, Food & Safety, detailed the background information in respect of ART.

ART, accompanied by Mr Burnell and Ms Burton, Legal Representatives, outlined the background details and circumstances of the convictions and answered Members' questions.

RESOLVED that:

1. ART be issued with a final warning letter regarding future conduct. The letter to indicate that any future breach will result in the matter being considered by the General Licensing Committee within 7 days; and
2. No action be taken in respect of ART's vehicle licence.

The meeting ended at 11.58 am

CHAIR

CITY AND COUNTY OF SWANSEA

MINUTES OF THE SPECIAL GENERAL LICENSING COMMITTEE

HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA ON FRIDAY,
23 OCTOBER 2015 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) presided

Councillor(s)	Councillor(s)	Councillor(s)
A C S Colburn	J P Curtice	H M Morris
D W Cole	P Lloyd	C L Philpott
A M Cook	K E Marsh	T H Rees

Apologies: Councillors P Downing & V M Evans.

Officers:

Lynda Anthony – Divisional Licensing Officer
Richard Jenkins – Licensing officer
Lyndsay Thomas – Lawyer
Gareth Borsden – Democratic Services
Allison Lowe – Democratic Services

62 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

63 **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)

64 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND
PRIVATE HIRE DRIVER'S LICENCE 2161 - MNI.**

The Divisional Licensing Officer outlined the background details in respect of MNI.

She indicated that the matter had been deferred at the Committee held on 9 October 2015 in order that MNI could seek representations.

She reported and detailed the four complaints received regarding MNI's conduct as a licensed Hackney Carriage Driver and Private Hire Driver.

The Lawyer advising the Committee outlined the procedure to be followed in considering the matters.

MNI assisted by Mr Davies (RMT) and Mr Ali (interpreter) outlined the background details and circumstances relating to each incident.

The Witnesses Mr F (complaint 2) and Mr B (complaint 3) attended the meeting and spoke regarding the matters raised and answered the questions of both Members and MNI's representative.

Officers and Members' asked questions of MNI and his representatives relating to all four incidents, they responded accordingly.

The Lawyer advising the Committee confirmed the relevant issues for consideration by the Committee.

RESOLVED that:

- 1) MNI's driving licence be suspended for a period of 3 months in order for him to undertake and pass a suitable course (as recommended by the Licensing Department) to address the deficiency in his English language and communication skills; and
- 2) No action be taken with regard to MNI's vehicle licence.

Reasons

1. The members recognised the paramount importance is the protection of the public.
2. They understood they could rely on non conviction evidence to decide suitability and the fitness of any driver.
3. The members felt MNI could retain his licence without putting the public safety at risk and felt the terms of the suspension going forward would not only protect the public but also MNI because:-
 - a. Complaint 1 - was not supported by evidence that the members considered reliable or credible as the complainant was relying on unsubstantiated hearsay.
 - b. Complaint 2 - having heard from both MNI and the complainant it was found as a matter of fact the complainant by his own admission had been drinking and found that his behaviour may have contributed to MNI's concern about the complainant's and MNI's own safety. The members found there was no overcharging and that returning the complainant to a safe place was reasonable in all the circumstances. The members felt there may have been a misunderstanding as to whether MNI had accepted the £20 fare offered by the

complainant as full payment or, as MNI suggested, he was going on the meter and had taken the sum on account. Members felt this was likely to be attributable to MNI's deficiency in English and inability to communicate.

- c. Complaint 3 – having heard both MNI and the complainant the members found that it was not unreasonable in the specific circumstances for MNI to decline to take the 1st passenger as MNI took reasonable steps to ensure the passenger did take an alternative taxi. Members accepted MNI's explanation that he did not refuse to take the 2nd passenger but as he had declined the 1st passenger he felt it was more appropriate for the next taxi in line to have that fare. The members did find that the incidents may have been exacerbated by the fact both the complainant and MNI had limited English ability and no other common language to adequately communicate their respective positions.
- d. Complaint 4 – The members heard that MNI did not agree with the contents of this complaint. The complainants were not in attendance to add any further information. It was noted in the complaint the incident took place at 4.30 am, the complainants had been drinking and made reference to 2 previous disputes over fares prior to MNI picking them up. This was a similar incident to complaint 2 above so the members felt it was more likely than not MNI's lack of English and the fact the complainants had been drinking contributed to the incident escalating. No finding was made with regard to the alleged missing items which issue was being dealt with by SWP.
4. The members recognised interference with a drivers licence required higher justification and found that suspension was proportionate having regard to the previous warnings and the fact 4 complaints had been received some action was necessary.
5. Member's noted and agreed with MD's representation that a suitable course would be beneficial because of MNI's acknowledged deficiencies in English.

The meeting ended at 12.33 pm

CHAIR

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
13TH NOVEMBER 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 This matter was deferred from the General Licensing Committee on 9th October 2015 as Mr Williams had confirmed that there had been difficulties taxing the vehicle.
- 1.3 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 notified the Licensing Division that his hackney carriage vehicle, a black Peugeot Expert vehicle registration mark SA58 UKT had caught 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 requested that the Licensing Division 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.
- 3.2 On 16th September 2015 the vehicle passed the Council inspection and an inspection by Licensing Officers. The mileage recorded at this time was 242,286 miles.
- 3.3 On 23rd September 2015 Licensing Officers noted that the recorded mileage on the vehicle was 242,286 miles at the time of the last MOT documentation in July 2015 and also when the Council tests were carried out in September 2015. Mr Williams was requested to confirm that the vehicle speedometer was in working order.
- 3.4 Mr Williams confirmed that the vehicle speedometer sensor had been faulty but had now been repaired.
- 3.5 On 28th September 2015 Licensing Officers conformed that both the speedometer and taxi 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. An Officer in Pembroke Council has also confirmed 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 As the vehicle has passed the council's inspections, Members are asked to consider whether the Peugeot Expert, vehicle registration mark SF53 BBJ is suitable for licensing as a hackney carriage vehicle in Swansea.

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:	Lyndsay Thomas

Agenda Item 5

Report of the Head of Legal, Democratic Services & Procurement

General Licensing Committee – 13 November 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
	6 & 7	12, 13 & 18
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Patrick Arran – Head of Legal, Democratic Services and Procurement (Monitoring Officer)	

1. Introduction

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

2. Exclusion of the Public / Public Interest Test

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

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

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

3. Financial Implications

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

4. Legal Implications

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

Background Papers: None

Public Interest Test

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

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

Agenda Item 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

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
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Information) (Variation) (Wales) Order 2007.

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