

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, 12 June 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 General Licensing Committee held on 14 May, 2015 and 19 May, 2015.	3 - 7
4 Terms of Reference (For Information).	8 - 9
5 Local Government (Miscellaneous Provisions) Act 1976 Application to Licence a Private Hire Vehicle, Ford Focus, Registration Mark EU59 GGO -MR David Jones.	10 - 13
6 Town Police Clauses Act 1847 - Application for the Grant of a Hackney Carriage Vehicle Licence - Volkswagen Transporter, Registration Mark CU05 FTF - Mr Tabarak Ali.	14 - 21
7 Exclusion of the Public.	22 - 25
8 Equality Act 2010 - Passengers in Wheelchairs - Request for an Exemption Certificate - JJH.	26 - 29
9 Local Government (Miscellaneous Provision) Act 1982 - Schedule 4, Application for the Grant of Street Trading Consent - LA.	30 - 36



Patrick Arran
Head of Legal, Democratic Services & Procurement
Thursday, 4 June 2015

Contact: Democratic Services - 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 5, GUILDHALL, SWANSEA ON
THURSDAY, 14 MAY 2015 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

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

Officers:-

R Jenkins	-	Licensing Officer
Y Lewis	-	Senior Licensing Officer
L Thomas	-	Senior Lawyer
S Woon	-	Democratic Services Officer

138 **APOLOGIES FOR ABSENCE.**

No apologies for absence were received.

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

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

140 **MINUTES:**

RESOLVED that the minutes of the:

- General Licensing Sub Committee held on 20 March, 2015;
- General Licensing Sub Committee held on 26 March, 2015; and
- General Licensing Committee held on 10 April, 2015.

Be accepted as correct records.

141 **TOWN POLICE CLAUSES ACT 1847 - APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE LICENCE - VOLKSWAGEN TRANSPORTER, REGISTRATION MARK CU05 FTF - MR T ALI.**

Members' viewed the vehicle.

The Senior Licensing Officer advised that an application for a hackney carriage vehicle licence had been received from Mr T Ali. The vehicle was a black

Volkswagon Transporter Registration Mark CU05 FTF and was capable of carrying 8 passengers.

Members' noted the background, Department of Transport Taxi and Private Hire Licensing: Best Practice Guidance: March 2010; Hackney Carriage Vehicle Policy and the previous proposal to allow the licensing of second hand Hackney Carriage vehicles.

Members asked questions of the Officer and Mr T Ali who responded accordingly.

RESOLVED that the application made by Mr T Ali for a hackney carriage vehicle licence in respect of the black Volkswagon Transporter, registration mark CU05 FTF be **REFUSED** under Section 37 of the Town Police Clauses Act 1847.

Reason for Decision

Members' were not satisfied that Mr T Ali could operate the vehicle to adequately secure the ramp for wheelchair passengers as he had failed to carry the bolts to fix the step plate onto the vehicle safely. This was the second occasion on which Mr Ali had presented the vehicle for official inspection with the bolts missing. Members also noted that this action could not permit Mr Ali or any other driver to drive the vehicle in accordance with Section 165 4 (d) and 5(b) of the Equality Act 2010.

142 **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)

143 **EQUALITY ACT 2010 - PASSENGERS IN WHEELCHAIRS - REQUEST FOR AN EXEMPTION CERTIFICATE - TEB.**

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

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

RESOLVED that TEB's request for an exemption from carrying wheel chair users in his hackney carriage vehicle be **APPROVED** and such exemption be valid for the duration of his Licence.

144 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND
PRIVATE HIRE DRIVER'S LICENCE 1485 - JQA.**

The Senior Licensing Officer, advised that JQA had failed to attend the meeting and had not provided a reason or requested a deferment of the matter.

The Senior Lawyer advised that the Complainant had given apologies due to a prior commitment.

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

Members' asked questions of the Officers who responded accordingly.

RESOLVED that:

- a. that the matter be dealt with in JQA's absence; and
- b. JQA's licence be revoked under Section 61 2 (b) of the Local Government (Miscellaneous Provisions) Act 1976 with immediate effect in the interest of public safety.

Reason for Decision

Members' were not satisfied that JQA was a fit and proper person due to:

- i. On the balance of probabilities, that JQA was speeding due to inference to the two previous driving convictions mentioned in the report and the written evidence received from the complainant;
- ii. JQA failed to provide reasonable assistance and failed to demonstrate the proper customer care as expected of a licensed driver by Members ; Therefore, Members attached more weight to the written evidence of the complainant rather than JQA in his absence as Members were unable to ask any further questions of JQA other than that was contained in the report;
- iii. JQA Failed to behave in a civil and orderly manner towards the complainant (in accordance with Condition 16 of the Private Hire Driver Conditions attached to the licence;
- iv. JQA had admitted to being abrupt in interview;
- v. Members also attached weight to the fact that despite previous disciplinary action, JQA had failed to alter poor behaviour in relation to the lack of customer care in 2012; and also noted the lack of attendance at the General Licensing Committee today, despite having prior written notification of the

date and time of the meeting, advising that the report may be heard in his absence and that no contact or any reasoning had been received from JQA requesting a deferment.

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

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

The Senior Lawyer and Members asked questions of RP who responded accordingly.

RP outlined the background details and circumstances of his request and answered Members' questions.

RESOLVED that RP's request for the grant of a hackney carriage and private hire driver's licence be **REFUSED** under Sections 51 and 59 of the Local Government (Miscellaneous Provisions) act 1976.

Reason for Decision

Members' noted that RP had pleaded guilty to the offences, these convictions still stood and that the amount admitted still amounted to approximately £10,000. Members therefore referred to the Council's adopted guidelines on the relevance of convictions and given the serious nature of the convictions applied the higher guideline which stated a period of five years free of any convictions should be required before entertaining an application.

The meeting ended at 11.39 am

CHAIR

CITY AND COUNTY OF SWANSEA

MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COUNCIL CHAMBER, GUILDHALL, SWANSEA ON TUESDAY,
19 MAY 2015 AT 5.15 PM

PRESENT:

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

1 **TO SUSPEND COUNCIL PROCEDURE RULE 12 "CHAIR OF MEETINGS" IN ORDER TO ALLOW THE PRESIDING MEMBER TO PRESIDE OVER THE UNDER MENTIONED AGENDA ITEMS.**

RESOLVED that Procedure Rule 12 be suspended in order to allow the Chair of Council to preside over this meeting.

(COUNCILLOR D W W THOMAS PRESIDED)

2 **TO ELECT A CHAIR FOR THE MUNICIPAL YEAR 2015-2016.**

RESOLVED that Councillor P M Matthews be elected Chair for the 2015-2016 Municipal Year.

(COUNCILLOR P M MATTHEWS PRESIDED)

3 **TO ELECT A VICE CHAIR FOR THE MUNICIPAL YEAR 2015-2016.**

RESOLVED that Councillor P Downing be elected Vice-Chair for the 2015-2016 Municipal Year.

4 **APOLOGIES FOR ABSENCE.**

No apologies for absence were received.

5 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

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

The meeting ended at 5.30 pm

CHAIR

Agenda Item 4

Terms of Reference - General Licensing Committee

1. To determine all licensing matters and any other matters of a licensing nature as set out in the scheme of delegation with exception of Licensing Act 2003 and Gambling Act 2005 licensing functions and matters.
2. All Licensing matters will be considered by the General Licensing Committee or General Sub Committee as deemed necessary, exercising plenary powers meeting on such specific occasions as necessary.
3. The General Licensing Committee shall be empowered to do anything which is necessarily incidental to the exercise of the delegated function and all delegations and or authorisations shall be construed accordingly unless they are expressly limited otherwise in order to facilitate the determination of any matters considered by them.
4. The General Licensing Committee or General Licensing Sub Committee as deemed necessary shall be empowered to adopt or modify any such rules of procedure including, but not limited to the Statement of Principles for taxi licensing in order to facilitate the determination of any matters considered by them.
5. To review and update conditions attached to existing licences/certificates/permits/consents and to agree new conditions required due to changes in legislation and or changes in trends or practices.
6. To consider appeals against an officer decision to refuse an application for approval to work as a driver or passenger assistant in vehicles for school transport purposes.

Note: All members of this Committee must have been trained by the Authority prior to them being permitted to take part in the meeting.

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Note: All members of this Committee must have been trained by the Authority prior to them being permitted to take part in the meeting.

Agenda Item 5

REPORT OF THE DIVISIONAL OFFICER LICENSING, FOOD & SAFETY

GENERAL LICENSING COMMITTEE 12th JUNE 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 APPLICATION TO LICENCE A PRIVATE HIRE VEHICLE, FORD FOCUS, REGISTRATION MARK EU59 GGO MR DAVID JONES

1. INTRODUCTION

- 1.1 An application for a private hire vehicle licence has been received from Mr David Jones. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age.
- 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 Jones wishes to apply for a private hire licence for a White Ford Focus type vehicle. The vehicle was first registered on 1st September 2009 and is therefore 5 years and 8 months old. The registration of the vehicle is EU59 GGO and is capable of carrying 4 passengers.

Inspections and Documents

- 2.2 The vehicle passed the Council's inspection at CTU on 13th May 2015 and the mileage recorded at this time was 140,904 miles.
- 2.3 Mr Jones has supplied the full service history for the vehicle and an up to date vehicle history check both of which are satisfactory.
- 2.4 Licensing Officers also inspected the vehicle on 13th May 2015 at the Civic Centre where the vehicle was considered to be of suitable standard for licensing as a private hire vehicle.
- 2.5 Members are therefore being asked to consider whether the Ford Focus, Registration Number, EU59 GGO 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 Jones, Members determine whether to:
- a. Grant Mr Jones a Private Hire Vehicle licence in respect of the Ford Focus, registration mark EU59 GGO and that this licence is renewed on merit. OR
 - b. Refuse Mr Jones a Private Hire Vehicle licence in respect of the Ford Focus, registration mark EU59 GGO 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 6

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
12th JUNE 2015

TOWN POLICE CLAUSES ACT 1847
APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE
LICENCE – VOLKSWAGEN TRANSPORTER, REGISTRATION MARK
CU05 FTF
MR TABARAK ALI

1. **INTRODUCTION**

- 1.1 An application for the grant of a hackney carriage vehicle licence has been received from Mr Ali. The vehicle is a black Volkswagen Transporter Registration Mark CU05 FTF and is capable of carrying 8 passengers.
- 1.2 Members of the Committee will recall that Mr Ali attended the General Licensing Committee on 14th May 2015 in respect of the same vehicle. Members following inspection of the vehicle and speaking with Mr Ali decided to refuse the application.
- 1.3 The reasons for the refusal were that Members were not satisfied that Mr Ali could operate the vehicle to adequately secure the ramp for wheelchair passengers as he had failed to carry the bolts to fix the step plate onto the vehicle safely. It was noted that this was the second occasion on which Mr Ali had presented the vehicle for official inspection with the bolts missing. Members also noted that this action could not permit Mr Ali or any other driver to drive the vehicle in accordance with Section 165 4(d) and 5(b) of the Equality Act 2010.
- 1.4 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 The vehicle was first registered on 10th March 2005 and is therefore 10 years and 3 months old.
- 2.2 This vehicle has been licensed as a hackney carriage from new with City and County of Swansea therefore no service history or vehicle history check has been sought.

- 2.3 The licence for this vehicle expired on 28th February 2015 but was not renewed. It is now presented to the General Licensing Committee to consider the grant of a new licence.
- 2.4 On 25th February 2015 Mr Ali informed the Licensing Division that the vehicle had been in a garage in London for approximately 2 to 3 months due to problems with the Engine Control Unit (ECU). The licence was not renewed due to the problems with the vehicle and the licence expired on 28th February 2015.
- 2.5 On 27th April 2015 Mr Ali contacted the Licensing Division to inform them that the vehicle was now repaired. Mr Ali then submitted an application for the grant of a hackney carriage vehicle licence together with a letter explaining the reason for not renewing the vehicle licence and a copy of an Invoice from XMB Motors Ltd for the work carried out on the hackney carriage vehicle CU05 FTF.
A copy of the letter and Invoice is attached as Appendix A.
- 2.6 On 29th April 2015 the vehicle CU05 FTF passed the Council's inspection and the mileage recorded at this time was 262,886 miles.
- 2.7 On 29th April 2015 the vehicle CU05 FTF attended at the Civic Centre and was inspected by a Licensing Officer, and the following faults were recorded:
- * Front off side window not working;
 - * Near side parking mirror broken;
 - * Interior of vehicle requires valeting;
 - * Rear door lining needs to be replaced;
 - * Straps and clamps for the securing of wheelchairs were not in the vehicle.
- 2.8 On 30th April 2015 the vehicle again attended at the Civic Centre and the driver produced and demonstrated the use of straps and clamps for the securing of wheelchairs. During the demonstration it was noted that the step plate could not be safely secured before the ramps are positioned.

3. **CURRENT CONSIDERATIONS**

- 3.1 Mr Ali made an application for the grant of a hackney carriage vehicle licence on 27th May 2015.
- 3.2 The vehicle was re-inspected by Licensing Officers at the time that the application was made and all faults noted on the previous inspection in April had been rectified. The step plate and fixings were present upon inspection and Mr Ali was able to demonstrate this in use.
- 3.3 Should the licence be granted, Members are asked to consider imposing the following additional condition to the vehicle licence:
- “The step plate and fixings used to facilitate wheelchair access must be securely stored and kept in the vehicle at all times and be safely secured before the ramps are positioned for the loading of the wheelchair.”*
- 3.4 With reference to the step plate within the vehicle, Members enquired during the Committee on the 14th May 2015 as to whether the step plate could be permanently fixed to avoid the need for the additional condition. This was considered during the vehicle inspection on the 27th May 2015 where it was decided that it would not be suitable as the step plate when fixed is not in line with the original flooring and may present a trip hazard.
- 3.5 In order to assist Members in reaching their decision the vehicle will be available for inspection at the Guildhall on Friday, 12th June 2015.
- 3.6 Members are therefore asked to determine the suitability of the black Volkswagen Transporter vehicle registration mark CU05 FTF for licensing as a hackney carriage vehicle in Swansea.

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

- 4.1 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.

5. **CURRENT HACKNEY CARRIAGE VEHICLE POLICY**

5.1 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.

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

5.3 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;

5.4 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.

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

5.6 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.

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

6.1 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.

- 6.2 The decision of the Licensing Committee was that any individual requests would be considered on merit should they arise.
- 6.3 Since that decision a number of requests have been considered by Committee.

7. **RECOMMENDATION**

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

- i) grant the application made by Mr Ali to licence the Volkswagen Transporter vehicle registration mark CU05 FTF as a hackney carriage with the following additional condition:

The step plate and fixings used to facilitate wheelchair access must be securely stored and kept in the vehicle at all times and be safely secured before the ramps are positioned for the loading of the wheelchair, or

- ii) refuse the application made by Mr Ali to licence the Volkswagen Transporter vehicle registration mark CU05 FTF as a hackney carriage giving full reasons for this decision.

The Licensing Committee's instructions are requested.

Background Papers:	Licence Application
Contact Officer:	Richard Jenkins
Extension:	5600
Legal Contact:	Aled Gruffydd

APPENDIX A

27th APRIL 2015

KATH THOMAS
£ TAXI LICENSING SECTION
CITY & COUNTY OF SWANSEA
OYSTERMOUTH ROAD
SWANSEA

Dear Kath,

as per our telephone conversation, i have enclosed the receipt from the specialist garage that carried out the engine re-building on my taxi. It was due to this re-building that i was unable to re-new the Haelney carriage vehicle licence on the 28th of February 2015. The vehicle is now back and ready to be re-licensed. I would be grateful if you could kindly process this application as soon as possible so that i can start taxi work without further delay. Also if you could kindly arrange the refund of -
Many Thanks - the additional £50.00 paid.

Yours Sincerely

Tasneem Ali

XMB MOTORS LTD.

INVOICE

Invoice number:
63

Units 4-7
Askew Farm Lane
Grays, Essex
RM17 5XR
Phone: 01375767760
info@xmbmotors.co.uk

Customer Name and Address:

Invoice Name:

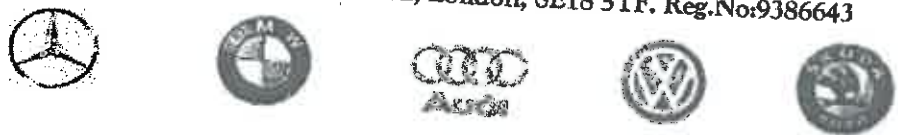
VW T5 TRANSPORTER

Date: 21.04.2015	Reference:	Vehicle Registration: CU05FIF
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QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1	RECONDITION ENGINE		£ 1,850.00
5	RECONDITION INJECTOR		£ 1,230.00
	ECU REPAIR		£ 500.00
	MOT		£ 410.00
	RECOVERY		£ 100.00
CASH	CHEQUE	CARD	BANK TR.
			SUBTOTAL £ 4,090.00
			VAT 0%
			DEPOSIT
			TOTAL £ 4,090.00

Signature: _____

Thank You for Your Order
 Reg office. Ground floor, 17 Bowater rd, London, SE18 5TF. Reg.No:9386643



Agenda Item 7

Report of the Head of Legal, Democratic Services & Procurement

General Licensing Committee – 12 June 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
	8 & 9	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> <ul style="list-style-type: none"> 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 b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts. <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 8

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

Document is Restricted

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

Document is Restricted

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 9

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

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