

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

GENERAL LICENSING COMMITTEE

At: Committee Room 1, Civic Centre, Swansea

On: Friday, 21 August 2015

Time: 10.00 am

AGENDA

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|---|---|---------|
| 1 | Apologies for Absence. | |
| 2 | Disclosures of Personal and Prejudicial Interest. | 1 - 2 |
| 3 | Local Government (Miscellaneous Provisions) Act 1976 - Application to License a Restricted Private Hire Vehicle, Renault Master, Registration Mark - YK04 PRJ - Mr L Jones. | 3 - 8 |
| 4 | Use of Temporary Repair Kits | 9 - 10 |
| 5 | Exclusion of the Public. | 11 - 14 |
| 6 | Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Renewal of Restricted Hackney Carriage and Private Hire Driver's License - Licence Number 8099 – ASO. | 15 - 21 |
| 7 | Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Renewal of Restricted Hackney Carriage and Private Hire Driver's License - Licence Number - Application for a Hackney Carriage and Private Hire Driver Licence - JLF. | 22 - 28 |
| 8 | Local Government (Miscellaneous Provisions) Act 1982 - Schedule 4 - GS. | 29 - 45 |



Patrick Arran
Head of Legal, Democratic Services & Procurement
Thursday, 13 August 2015

Contact: Democratic Services - 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 – 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.

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE SPECIAL GENERAL LICENSING COMMITTEE
21ST AUGUST 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,
RENAULT MASTER, REGISTRATION MARK YK04 PRJ
MR LEE JONES

1. INTRODUCTION

- 1.1 An application for a restricted private hire vehicle licence has been received from Mr Lee Jones. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age and only having one door on the off side 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 Mr Jones wishes to apply for a restricted private hire licence for a white Renault Master type vehicle. The vehicle was first registered on 20th July 2004 and is therefore 11 years and 1 month old. The registration of the vehicle is YK04 PRJ and is capable of carrying 8 passengers.

The Purpose

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

Inspections and Documents

- 2.3 The vehicle passed the Council's inspection at CTU on 29th July 2015 and the mileage recorded at this time was 136,334 miles.
- 2.4 Mr Jones has supplied maintenance history for the vehicle which is satisfactory.

- 2.5 A Licensing Officer also inspected the vehicle on 29th July 2015 at the Civic Centre when it was noted that the vehicle had only one door on the off side.

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 Members are therefore being asked to consider whether the Renault Master, Registration Number, YK04 PRJ is suitable for licensing as a restricted private hire vehicle for the purposes of airport travel and school contracts only.

- 3.5 The vehicle will be available for Members to inspect at the time of the Committee.

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 Mr Jones, Members determine whether to:
- a. Grant Mr Jones a Restricted Private Hire Vehicle licence in respect of the Renault Master, registration mark YK04 PRJ for the purposes of airport travel and school contracts and that this licence is renewed on merit. OR
 - b. Refuse Mr Jones a Restricted Private Hire Vehicle licence in respect of the Renault Master, registration mark YK04PRJ 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: Lyndsay Thomas

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
21st AUGUST 2015

USE OF TEMPORARY REPAIR KITS

1.0 Purpose of the Report

- 1.1 To ask Members to consider authorising licensing officers to grant licences for hackney carriage and private hire vehicles where they are manufactured without provision for a spare wheel or have been supplied without a spare wheel and are supplied with a temporary repair kit.

2.0 Current Considerations

- 2.1 Currently, all licensed vehicles are required to have a spare wheel including a skinny spare and space saver type spare or be fitted with run flat tyres.
- 2.2 Many vehicles are now supplied with a tyre sealant and tyre inflation packs as an alternative to a spare wheel and in many of these cases the customer does not have a choice of a spare wheel due to the configuration or design space of the model itself.
- 2.3 Post puncture sealant products provide a temporary repair and are not considered as a permanent repair. The post puncture sealant products also have a 'shelf life' (marked on the containers), a date beyond which their effectiveness diminishes.
- 2.4 Due to the changes being made by vehicle manufacturers an increasing number of vehicles are being presented for licensing without a spare wheel. In view of this discussions have been held with an officer from the Central Transport Unit (CTU) in relation to the suitability of the use of temporary repair kits. He has confirmed that an increasing number of vehicle are being supplied without a spare wheel of any type and that temporary repair kits are being provided as an acceptable alternative temporary repair. The officer will be present at Committee to answer any technical questions Members may have.

3.0 Recommendation

3.1 It is recommended that after consideration of this report and after hearing from the officer from the Council's Transport Unit that :

- a) Officers of the Licensing Section are authorised to grant a vehicle licence for a vehicle provided with a temporary repair kit in place of a spare wheel subject to the following conditions being attached to the licence:
 - i) Vehicles approved for the use of a temporary repair kit in place of a spare wheel will be equipped with a repair kit at all times for use in accordance with the manufacturers guidelines;
 - ii) Where a puncture does occur, proprietors and drivers shall seek alternative arrangements for continuation of the passengers journey before utilising the temporary repair kit;
 - iii) Vehicles that utilise a temporary repair kit in order to complete a hiring shall be used in conjunction with the manufacturer's guidelines and not be used for any further hiring until the wheel or tyre has been replaced;
 - iv) Vehicle proprietors of vehicles that utilise a temporary repair kit will keep a record of the date and time the repair kit was last used in the vehicle at all times and will obtain and retain evidence that the wheel or tyre has been replaced. Such information will be readily available for officers upon request.

The Licensing Committee's instructions are requested

Background Papers: none
Contact Officer: Richard Jenkins
Extension: 5600
Legal Contact: Lyndsay Thomas

Report of the Head of Legal, Democratic Services & Procurement

Special General Licensing Committee – 21 August 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 & 8	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

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

Document is Restricted

Agenda Item 7

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

Document is Restricted

Agenda Item 8

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

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

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