

CITY AND COUNTY OF SWANSEA

MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COUNCIL CHAMBER, GUILDHALL, SWANSEA ON FRIDAY,
12 AUGUST 2016 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)

C Anderson

J P Curtice

P Lloyd

Councillor(s)

A C S Colburn

P Downing

K E Marsh

Councillor(s)

A M Cook

V M Evans

H M Morris

Officer(s)

L Anthony

B Gilbert

G James

R Jones

Y Lewis

L Thomas

G White

S Woon

Divisional Officer, Licensing, Food & Safety

Transport Officer

Central Transport Unit Officer

Transport Officer

Senior Licensing Officer

Senior Lawyer

Lawyer

Democratic Services Officer

Apologies for Absence

Councillor(s): C L Philpott and T H Rees

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

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests were declared:

Councillor C A Anderson – Personal – Minute No. 37 – I know MJW's parents.

33 **MINUTES:**

RESOLVED that the minutes of the General Licensing Committee held on 8 July, 2016, be agreed as a correct record.

34 **REQUEST TO REMOVE MINIMUM ENGINE SIZE/CAPACITY CONDITION.**

The Divisional Officer, Licensing & Food Safety, presented a report which sought to remove the minimum engine size/capacity condition specified in the hackney carriage, private hire and restricted private hire vehicle conditions.

She detailed the background; current position; proposal; considerations and recommendations.

Members asked questions of the Officers who responded accordingly.

RESOLVED that the condition requiring that the engine capacity of the hackney carriage, private hire and restricted private hire vehicles must not be less than 1500cc, be **RETAINED**.

35 **RESULTS OF APPEALS.**

The Divisional Officer, Licensing, Food & Safety presented a 'for information' report detailing the results of appeals.

RESOLVED that the report be **NOTED**.

36 **EXCLUSION OF THE PUBLIC.**

The Committee was requested to exclude the public from the meeting during the consideration of the items of business identified in the recommendations to the report on the grounds that it involved the likely disclosure of exempt information as set out in the exclusion paragraph of 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007, relevant to the item of business as set out in the report.

The Committee considered the Public Interest Test in deciding to exclude the public from the meeting for the items of business where the Public Interest Test was relevant, as set out in the report.

It was **RESOLVED** that the public be excluded for the following items of business.

(CLOSED SESSION)

37 **APPEAL AGAINST DECISION NOT TO APPROVE AS A DRIVER FOR HOME TO SCHOOL TRANSPORT - MJW.**

The Lawyer advising the Committee advised that MJW had sought an adjournment due to errors with MJW's DBS check.

Members asked questions of the Officer who responded accordingly.

RESOLVED that the matter be **DEFERRED** to a future meeting.

38 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DUAL BADGE DRIVER - RBP.**

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

RBP outlined the background details and circumstances relating to the convictions and answered Members' questions.

RESOLVED that RBP's private hire and hackney carriage driver's licence be renewed with a warning letter regarding future conduct.

39 **EQUALITY ACT 2010 - PASSENGER IN WHEELCHAIRS - REQUEST FOR AN EXEMPTION CERTIFICATE - MAC.**

The Divisional Officer, Licensing, Food & Safety detailed the background in respect of MAC's request.

Members asked questions of the Officer who responded accordingly.

MAC, accompanied by his wife, provided details in support of the application and answered Members questions.

RESOLVED that MAC be granted an Exemption Certificate for a period of one year.

40 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - NM.**

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

Members asked questions of the Officer who responded accordingly.

NM explained the circumstances of the convictions and answered Members questions.

RESOLVED that NM's application for the grant of a Hackney Carriage and Private Hire Driver's Licence be **APPROVED**.

41 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DUAL BADGE DRIVER - RESTRICTED PRIVATE HIRE VEHICLE PROPRIETOR - RESTRICTED PRIVATE HIRE OPERATOR - MCB.**

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

MCB, assisted by Ms Hill, Barrister, outlined the circumstances relating to the convictions and answered Members questions.

RESOLVED that:

- 1) MCB's Private Hire and Hackney Carriage Drivers Licences be **REVOKED under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976**;
- 2) MCB be issued with a final warning letter (about responsibilities and compliance with statutory requirements) in relation to the 9 restricted private hire vehicle licences and 1 private hire vehicle licence; and
- 3) MCB's restricted private hire operators' licence for MCB Travel be **REVOKED under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976**.

Reasons for Decisions

Resolution 1

Members no longer considered MCB a fit and proper person to hold a hackney carriage and private hire driver's licence due to the reported convictions.

In respect of the offence dated 21 January, 2016, on 13 January, 2016, MCB had been advised that he was not able to operate the vehicle concerned under his PSV operator's licence. MCB had disregarded that advice and used the vehicle as a private hire vehicle on 21 January, 2016 without a current vehicle licence resulting in a conviction.

Members were not satisfied that MCB had acted out of character and will not repeat the offence. MCB has been issued with a warning letter previously but again had allowed an unlicensed driver to drive a licensed vehicle despite the fact he was aware of the need for a licence. Members therefore considered a warning to be insufficient to protect the travelling public who were mainly children.

MCB was ultimately responsible for ensuring that the licensing requirements were met and did not take steps to ensure compliance. Members were not persuaded that the current arrangements would be sufficient to ensure compliance with all licensing requirements.

Resolution 3

Members considered that the offences committed by MCB, who was the sole director of the company and that the matters reported and representations made were a material change in circumstances and as a result members were no longer satisfied that MCB is a fit and proper person to hold an operator's licence.

Whilst the offence reported is the first offence of the company, as MCB is sole director he is responsible for compliance with the licensing requirements and Members considered that he did not take sufficient steps to protect the travelling public, in particular children, by adequately monitoring the vehicles and drivers being operated.

In respect of the offence dated the 21st January 2016, on 13th January MCB had been advised, that he was not able to operate the vehicle concerned under his PSV operator's licence. MCB had disregarded that advice and used the vehicle as a private hire vehicle on 21/1/16 without a current vehicle licence resulting in a conviction.

Members were not satisfied that the action taken by MCB against an employee is sufficient to protect the travelling public.

Members did not consider another warning letter to be sufficient to protect the travelling public who were mainly children as a further similar offence had been committed by MCB following a previous warning where an unlicensed driver was

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employed to use a licenced vehicle to undertake a hiring and private hire vehicles were operated without the required vehicle licence.

The meeting ended at 12.25 pm

CHAIR