

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

GENERAL LICENSING COMMITTEE

At: Council Chamber, Guildhall, Swansea

On: Friday, 12 August 2016

Time: 10.00 am

Chair: Councillor Penny Matthews

Membership:

Councillors: C Anderson, A C S Colburn, A M Cook, J P Curtice, P Downing, V M Evans, P Lloyd, K E Marsh, H M Morris, C L Philpott and T H Rees

AGENDA

	Page No.
1 Apologies for Absence.	
2 Disclosures of Personal and Prejudicial Interest. www.swansea.gov.uk/disclosuresofinterests	
3 Minutes: To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 3
4 Request to Remove Minimum Engine Size/Capacity Condition.	4 - 5
5 Results of Appeals.	6 - 7
6 Exclusion of the Public.	8 - 11
7 Appeal Against Decision not to Approve as a Driver for Home to School Transport - MJW.	12 - 17
8 Local Government (Miscellaneous Provisions) Act 1976 - Dual Badge Driver - RBP.	18 - 32
9 Equality Act 2010 - Passenger in Wheelchairs - Request for an Exemption Certificate - MAC.	33 - 36
10 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.	37 - 40

11 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Dual Badge Driver - Restricted Private Hire Vehicle Proprietor - Restricted Private Hire Operator - MCB. 41 - 52

Next Meeting: Friday, 9 September 2016 at 10.00 am

Huw Evans

**Huw Evans
Head of Democratic Services
Thursday, 4 August 2016**

Contact: Democratic Services - Tel: (01792) 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COUNCIL CHAMBER, GUILDHALL, SWANSEA ON FRIDAY, 8
JULY 2016 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)

A C S Colburn
P Downing
K E Marsh
T H Rees

Councillor(s)

D W Cole
V M Evans
H M Morris

Councillor(s)

A M Cook
P Lloyd
C L Philpott

Officer(s)

L Anthony
R Jenkins
L Thomas
G White
S Woon

Divisional Licensing Officer
Licensing Officer
Senior Lawyer
Lawyer (Observing)
Democratic Services Officer

Apologies for Absence

Councillor(s): J P Curtice

24 **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.

25 **MINUTES:**

RESOLVED that the minutes of the Special General Licensing Committee held on 27 May 2016, the Special General Licensing Committee held on 3 June, 2016 and the General Licensing Committee held on 10 June, 2016 be agreed as correct records.

26 **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)

27 **TOWN POLICE CLAUSES ACT 1947 - LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR THE GRANT
OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - MGRL.**

The Divisional Officer, Licensing, Food and Safety, detailed the background information in respect of MGRL.

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

RESOLVED that MGRL's application for a Hackney Carriage and Private Hire Driver's Licence **BE APPROVED** with advisory letter regarding future conduct.

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

The Divisional Officer, Licensing, Food and Safety, detailed the background information in respect of PJCT.

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

RESOLVED that PJCT's application for a Hackney Carriage and Private Hire Driver's Licence **BE APPROVED**. PJCT also to attend for medical examinations in accordance with the DVLA Group 2 medical standards with his own GP every 6 months and attend three monthly examinations with the GP nurse in respect of the medical condition. The reports of all medical examinations to be provided to the Licensing Section within 5 working days of issue.

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

The Divisional Officer, Licensing, Food and Safety, detailed the background information in respect of SH.

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

RESOLVED that SH's application for a Hackney Carriage and Private Hire Driver's Licence **BE APPROVED** with advisory letter regarding future conduct.

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

The Divisional Officer, Licensing, Food and Safety, detailed the background information in respect of SMC.

SMC, accompanied by a family member NC, outlined the background details and circumstances relating to the convictions and answered Members' questions.

NC then spoke in support of SMC.

RESOLVED that SMC's application for a Hackney Carriage and Private Hire Driver's Licence **BE APPROVED**.

The meeting adjourned at 11.25 and reconvened at 11.30 am.

31 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 -
SCHEDULE 4 - GS.**

The Divisional Licensing Officer, Trading Standards, detailed the background information in respect of GS. He confirmed that the last line of paragraph 4.1 of the report was to be deleted and Members were to consider the application on that basis.

Members asked questions of the Officer who responded accordingly.

GS outlined the background details and circumstances outlined in the report and answered Members' questions.

RESOLVED that GS's Street Trading Consent with advisory letter **BE GRANTED**.

The meeting ended at 11.56 am

CHAIR

Agenda Item 4

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
12th August 2016

REQUEST TO REMOVE MINIMUM ENGINE SIZE/CAPACITY CONDITION

1.0 BACKGROUND

- 1.1 A number of verbal requests have been received by the Licensing Section to remove the engine size restriction specified in the hackney carriage, private hire and restricted private hire vehicle conditions.
- 1.2 The current conditions have been in place since 2005 but have been subject to changes approved by the Licensing Committee as necessary.

2.0 CURRENT POSITION

- 2.1 Current hackney carriage, private hire and restricted private hire vehicle conditions require that the engine capacity of the vehicles shall not be less than 1500cc.

3.0 THE PROPOSAL

- 3.1 Due to the advances in car manufacturing since 2005, some licensed proprietors are concerned that the engine size restriction specified in the vehicle conditions is now out of date and request that this restriction is removed.
- 3.2 The removal of this restriction would mean that all vehicles would be considered on merit regardless of engine capacity.

4.0 Considerations

- 4.1 In view of the requests made, discussions have been held with an officer from the Central Transport Unit (CTU) regarding the suitability of the removal of the engine size restriction from the vehicle conditions. The officer has confirmed that as a result of the advances in car manufacturing removal of the restriction regarding engine size would be supported. The officer will be present at Committee to answer any technical questions Members may have.

5.0 RECOMMENDATIONS

- 5.1 It is recommended that after consideration of this report and hearing from the officer from the Council's Central Transport Unit, that the condition requiring that the engine capacity of the hackney carriage, private hire and restricted private hire vehicles must be not less than 1500cc is removed.

The Licensing Committee's instructions are requested.

Background Papers: None
Contact Officer: Yvonne Lewis
Extension: 5600
Legal Contact: Lyndsay Thomas

Agenda Item 5

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
12th August 2016

FOR INFORMATION ONLY

RESULT OF APPEALS

NAME	COURT	DATES	OFFENCE	RESULT
Mohammed Sabilur Rashid	Swansea Magistrates Court	11 th July 2016	<p>Appeal against the decision of the Licensing Committee to refuse an application for hackney carriage and private hire driver licences..</p> <p>The reason for the decision of the Licensing Committee was that Members were not satisfied that Mr Rashid is a fit and proper person to hold a licence as a result of admissions made regarding disclosures by a Chief Police Officer set out under "Other Relevant Information" on his DBS Certificate.</p> <p>The Members were advised they were able to and should consider the disclosures made by the Chief Police Officer when considering the application.</p> <p>The Members recognised the safety of the public was their paramount concern and that as a licensed driver Mr Rashid would have contact with all members of society including children and adults who could be vulnerable.</p> <p>The Members considered, taking all relevant matters into consideration, that the conduct Mr Rashid had</p>	<p>Appeal dismissed.</p> <p>Costs awarded to the Authority £600.</p>

			<p>admitted to was inappropriate and unacceptable and he had been hiding it.</p> <p>Mr Rashid did not accept that his conduct was inappropriate. Therefore, Members were not persuaded that he was acting out of character and would not repeat all or part of the behaviour.</p> <p>Members were mindful that as this was a grant of a licence and it was for Mr Rashid to satisfy them that he was a fit and proper person to hold a driver's licence and in light of his own admissions regarding his conduct they were not satisfied that he was a fit and proper person.</p>	
Mrs Emma Jayne Louise Ivey	Swansea Magistrates Court	15 th July 2016	<p>Appeal against the decision of the Licensing Committee to refuse an application for hackney carriage and private hire driver licences.</p> <p>The reasons for the refusal were that Members, having regard to Mrs Ivey's previous convictions and caution and the representations made were not satisfied that she is a fit and proper person and considered it necessary to apply the guidelines requiring at least 3 years free from convictions before considering a grant to you.</p>	<p>Appeal dismissed.</p> <p>Costs awarded to the Authority £300.00</p>

Agenda Item 6

Report of the Deputy Head of Legal & Democratic Services

General Licensing Committee – 12 August 2016

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
	7, 8, 9, 10 & 11	12, 13 & 18
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Tracey Meredith – Deputy Head of Legal & Democratic Services (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, Cabinet 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.

Appendices: Appendix A – Public Interest Test.

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>

No.	Relevant Paragraphs in Schedule 12A
15	<p>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.</p>
	<p>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.</p>
16	<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>
	<p>No public interest test.</p>
17	<p>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.</p>
	<p>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.</p>
18	<p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>
	<p>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.</p>

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.

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Agenda Item 8

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