

# 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, 9 September 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](http://www.swansea.gov.uk/disclosuresofinterests)
- 3 **Minutes:** 1 - 5  
To approve & sign the Minutes of the previous meeting(s) as a correct record.
- 4 **Exclusion of the Public.** 6 - 9
- 5 **Appeal Against Decision not to approve as a Driver for Home to School Transport - PASG.** 10 - 13
- 6 **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 - BJH.** 14 - 19
- 7 **Local Government (Miscellaneous Provisions) Act 1976 - Dual Badge Driver - SMW.** 20 - 22
- 8 **Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for the Grant of a Restricted Hackney Carriage and Private Hire Driver's Licence - TBC.** 23 - 29

**Next Meeting:** Friday, 14 October 2016 at 10.00 am

*Huw Evans*

**Huw Evans**

**Head of Democratic Services**

**Friday, 2 September 2016**

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**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,  
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 21<sup>st</sup> January 2016, on 13<sup>th</sup> 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

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**

# Agenda Item 4

## Report of the Deputy Head of Legal & Democratic Services

### General Licensing Committee – 9 September 2016

#### EXCLUSION OF THE PUBLIC

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.	
<b>Policy Framework:</b>	None.	
<b>Reason for Decision:</b>	To comply with legislation.	
<b>Consultation:</b>	Legal.	
<b>Recommendation(s):</b>	It is recommended that:	
<b>1)</b>	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.	
	<b>Item No.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	5, 6, 7 & 8	
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	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
<b>12</b>	<b>Information relating to a particular individual.</b>
	<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>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<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>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<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><b>a)</b> 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>b)</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><b>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.</b></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><b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b></p>
	<p>No public interest test.</p>
17	<p><b>Information which reveals that the authority proposes:</b>  <b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b>  <b>(b) To make an order or direction under any enactment.</b></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><b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b></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 5

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.

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# 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.

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# 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

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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