

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, 14 October 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 Results of recent Appeals (For Information).	4 - 5
5 Exclusion of the Public.	6 - 9
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 - APH.	10 - 15
7 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 - AJT.	16 - 18

Next Meeting: Friday, 11 November 2016 at 10.00 am

Huw Evans

Huw Evans

Head of Democratic Services

Thursday, 6 October 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, 9
SEPTEMBER 2016 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)

C Anderson

J P Curtice

H M Morris

Councillor(s)

A C S Colburn

P Lloyd

C L Philpott

Councillor(s)

A M Cook

K E Marsh

T H Rees

Officer(s)

L Anthony

A Gruffydd

R Jenkins

B Gilbert

S Woon

Divisional Officer, Licensing, Food & Safety

Lawyer

Licensing Officer

Transport Officer

Democratic Services Officer

Apologies for Absence

Councillor(s): P Downing and V M Evans

42 **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.

43 **MINUTES:**

RESOLVED that the minutes of the General Licensing Committee held on 12 August, 2016 be agreed as a correct record.

44 **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)

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

The Transport Officer detailed the background information in respect of PASG.

PASG outlined the circumstances relating to the convictions and answered Members' questions.

RESOLVED that PASG's appeal against the decision not to approve as a Driver for Home to School Transport be **DISMISSED**.

Reason for Decision

The Committee did not believe that PASG would be able to emotionally support himself in difficult situations whilst transporting children.

The Committee were also of the opinion that the officer who declined approval for Home to School Transport did not wrongly apply the adopted guidelines for violence as part of the Council's school transport policy.

46 **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.**

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

BJH outlined the circumstances relating to the convictions and answered Members' questions.

RESOLVED that BJH's application for the grant of a hackney carriage and private hire driver's licence be **REFUSED** under Section 51 & 59 of the Local Government (Miscellaneous Provisions) Act 1976.

Reason for Decision

Members applied their adopted guidance of at least three clear years free of convictions should be shown before an application is entertained.

47 **TOWN POLICE CLAUSES ACT 18478 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DUAL BADGE DRIVER - SMW.**

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

SMW outlined the circumstances relating to the convictions and answered Members' questions.

RESOLVED that SMW be issued with a strong warning letter regarding future conduct.

48 **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.**

The Divisional Licensing Officer advised that TBC had failed to attend the meeting and no request had been received for a deferment of consideration of the matter.

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

RESOLVED that:

- a) The matter be dealt with in TBC's absence;
- b) TBC's application for the grant of a restricted hackney carriage and private hire driver's licence be **REFUSED** under Section 51 & 59 of the Local Government (Miscellaneous Provisions) Act 1976.

Reason for Decision

Members adhered to their adopted policy in relation to a period of 3 to 5 years free of any convictions be required before entertaining an application.

The meeting ended at 11.11 am

CHAIR

Agenda Item 4

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
14th October 2016

FOR INFORMATION ONLY

RESULT OF APPEALS

NAME	COURT	DATES	OFFENCE	RESULT
Mr William Martyn Phillips	Swansea Magistrates Court	30 th August 2016	<p>Appeal against the decision of the Licensing Committee to revoke the 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 Phillips was a Fit and Proper Person to hold a licence. Although they felt that the version of events provided to the Police by Mr Phillips was the correct version, Mr Phillips had either been dishonest with the Police or with the General Licensing Committee and so dishonesty had been present. Members believed that there had been a pattern of dishonesty with regard to previous offences which resulted in a previous suspension of Mr Phillips' hackney carriage and private hire driver licences. However, this had not been heeded.</p>	<p>Appeal dismissed.</p> <p>Costs awarded to the Authority £480.</p>
Mr Anthony Jack Rees	Swansea Magistrates Court	5 th August 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 were not</p>	<p>Appeal dismissed.</p> <p>Costs awarded to the Authority £250</p>

			satisfied that Mr Rees was a Fit and Proper Person due to the frequency and number of driving convictions and there had not been sufficient time without any convictions to satisfy the Members that Mr Rees would not re-offend.	
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Agenda Item 5

Report of the Interim Head of Legal & Democratic Services

General Licensing Committee – 14 October 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
	6 & 7	12, 13 & 18
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Tracey Meredith – Interim 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 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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