

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 December 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 - 2
4 Immigration Act 2016 - Changes to Taxi and Private Hire Legislation and Fees	3 - 6
5 Exclusion of the Public.	7 - 10
6 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 - AB.	11 - 20
7 Local Government (Miscellaneous Provisions) Act 1976 - Dual Badge Driver - APB.	21 - 24
8 Local Government (Miscellaneous Provisions) Act 1976 - Dual Badge Driver - Hackney Carriage Vehicle Proprietor - PMD.	25 - 28
9 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 - CTP.	29 - 32

**10 Local Government (Miscellaneous Provisions) Act 1976 - Dual
Badge Driver - JMP.**

33 - 37

Next Meeting: Friday, 13 January 2017 at 10.00 am



**Huw Evans
Head of Democratic Services
Thursday, 1 December 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,
11 NOVEMBER 2016 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)

C Anderson
H M Morris

Councillor(s)

A M Cook
C L Philpott

Councillor(s)

K E Marsh
T H Rees

Officer(s)

Lynda Anthony
Aled Gruffydd
R Jones
C Swain
S Woon

Divisional Officer, Licensing, Food & Safety
Lawyer
Transport Officer
Transportation Group Leader
Democratic Services Officer

Apologies for Absence

Councillor(s): A C S Colburn, J P Curtice, P Downing and V M Evans

55 **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.

56 **MINUTES:**

RESOLVED that the minutes of the General Licensing Committee held on 14 October, 2016 be agreed as a correct record.

57 **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)

58 **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 - MC.**

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

Members asked questions of the Officer who responded accordingly.

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

RESOLVED that MC's application for a Hackney Carriage and Private Hire Driver's Licence be **REFUSED**.

Reason for Decision

The Committee did not consider MC to be a fit and proper person as they were of the opinion that misunderstanding the process was not valid mitigation. In addition to MC being evasive during questioning, MC had also failed to disclose the endorsements.

59 **APPEAL AGAINST DECISION NOT TO APPROVE AS A PASSENGER
ASSISTANT FOR HOME TO SCHOOL TRANSPORT - MOP.**

The Transport Officer detailed the background in respect of MOP.

MOP explained the circumstances of the conviction and answered Members questions.

RESOLVED that MOP's appeal against the decision not to approve as a Passenger Assistant be **UPHELD**.

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

The Transport Officer detailed the background in respect of DLL.

DLL, accompanied by his wife, explained the circumstances of the conviction and answered Members questions.

The Lawyer advising the Committee read a letter of support in respect of DLL's Appeal.

RESOLVED that DLL's appeal against the decision not to approve as a Passenger Assistant be **UPHELD** and DLL be issued with a strong warning letter regarding future conduct.

The meeting ended at 10.50 am

CHAIR

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
9th December 2016

IMMIGRATION ACT 2016 – CHANGES TO TAXI AND PRIVATE HIRE
LEGISLATION AND FEES

1.0 PURPOSE

- 1.1 To inform Members of the implications the Immigration Act 2016 (the Act) will have for licensing authorities, applicants for hackney carriage and private hire driver licences and to seek approval for a fee for a 6 month hackney carriage and private hire driver's licence.

2.0 IMMIGRATION ACT 2016

- 2.1 The Immigration Act 2016 Section 37 and Schedule 5 amends existing licensing regimes in the UK and seeks to prevent illegal working in the private hire vehicle and taxi sector. With effect from 1st December 2016 the provisions of the Act require all licensing authorities to ensure that they do not issue licences to illegal migrants and to discharge this duty through increased immigration checks.

3.0 NEW DUTIES FOR LICENSING AUTHORITIES

- 3.1 The new provisions mean that hackney carriage and private hire driver's licences and private hire operator's licences must not be issued to people who are illegally present in the UK, people who are not permitted to work or people who are permitted to work but are subject to a condition that prohibits them from holding such a licence.
- 3.2 Where a person's permission to be in the UK, known as their 'leave' is time-limited to less than the statutory length of a driver or operator licence, the licence must be issued for a duration which does not exceed the applicant's period of permission to be in the UK. In the event that the Home Office curtails or revokes a person's permission to be in the UK), any licence that person holds will automatically lapse.
- 3.3 The provisions also add immigration offences and penalties to the list of grounds on which hackney carriage and private hire driver and operator licences may be suspended or revoked by licensing authorities. Where the driver or operator licence expires, is revoked or suspended on immigration grounds, it must be returned to the licensing authority. Failure to return the licence will be a criminal offence, punishable on conviction in a Magistrates' Court by way of a fine.

4.0 IMPLICATIONS

- 4.1 As of 1st December 2016, all new applicants or renewal applicants for a hackney carriage and private hire driver's licence and/or private hire operator licence will be subject to an immigration check.
- 4.2 Applicants will be subject to an immigration check regardless of nationality.
- 4.3 Renewal applicants will be subject to an immigration check for the first renewal of their licence only after 1st December 2016 unless their 'leave to remain' is time limited when they will be subject to further checks.
- 4.4 The checks will be carried out in front of the applicant by examining documentation such as a passport, full UK birth certificate and proof of National Insurance or biometric residence permit. Other documentation may be requested on a case by case basis when the documentation above is not held. Copies of the documents will need to be verified, retained on file and checked with the Home Office Evidence and Enquiry Unit where relevant.
- 4.5 Many of the documents that will be requested are currently produced by applicants when completing an application for a criminal history check with the disclosure and barring service (DBS) therefore the impact on the customer will be minimal.

5.0 PROPOSED FEES

- 5.1 If an applicant's leave to remain is subject to time restrictions, the licensing authority will only be permitted to issue a 6 month licence.
- 5.2 As Members will be aware the current fees prescribed for hackney carriage and private hire drivers are for 1 and 3 year durations and are set to enable cost recovery in line with the legislation
- 5.3 The following table proposes a new fee for a 6 month licence to be charged where time limited licences are required to be issued for 6 months for immigration purposes. If licences are required for any other period the individual application will be reported to the Licensing Committee for decision.

	Current	Proposed
Driver Grant 6 month (including restricted Driver)		£100.00
Driver Grant 1 year (including restricted Driver)	£124.00	
Driver Grant 3 year (including restricted Driver)	£236.00	
Driver Renewal 6 month (including Restricted Driver)		£56.00
Driver Renewal 1 year (including Restricted Driver)	£81.00	
Driver Renewal 3 year (including Restricted Driver)	£191.00	
Knowledge Test	£29.00	

6.0 RECOMMENDATIONS

6.1 It is recommended that:

Members approve the proposed fee levels outlined in paragraph 5 with immediate effect.

The Licensing Committee's instructions are requested.

Background Papers:	Immigration Act and Guidance
Contact Officer:	Yvonne Lewis
Extension:	5600
Legal Contact:	Lyndsay Thomas

Report of the Interim Head of Legal & Democratic Services

General Licensing Committee – 9 December 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, 8, 9 & 10	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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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.

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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.

Document is Restricted

Agenda Item 9

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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