

# 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, 10 February 2017

**Time:** 10.00 am

**Chair:** Councillor Penny Matthews

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### 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

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- |          |   |                |
|----------|---|----------------|
| <b>1</b> | <b>Apologies for Absence.</b>   |                |
| <b>2</b> | <b>Disclosures of Personal and Prejudicial Interest.</b><br><a href="http://www.swansea.gov.uk/disclosuresofinterests">www.swansea.gov.uk/disclosuresofinterests</a>                            |                |
| <b>3</b> | <b>Minutes:</b><br>To approve & sign the Minutes of the previous meeting(s) as a correct record.  | <b>1 - 4</b>   |
| <b>4</b> | <b>Exclusion of the Public.</b>   | <b>5 - 8</b>   |
| <b>5</b> | <b>Appeal Against Decision not to Approve as a Driver for Home to School Transport - MJW.</b>   | <b>9 - 14</b>  |
| <b>6</b> | <b>Equality Act 2010 - Passengers in Wheelchairs - Request for an Exemption Certificate - WCS.</b>  | <b>15 - 18</b> |
| <b>7</b> | <b>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 - HF.</b> | <b>19 - 22</b> |
| <b>8</b> | <b>Local Government (Miscellaneous Provisions) Act 1976 - Dual Badge Driver - Badge Number 1276 - DJM.</b>  | <b>23 - 27</b> |
| <b>9</b> | <b>Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver's Licence - CTH.</b>                        | <b>28 - 82</b> |

**Next Meeting:** Friday, 10 March 2017 at 10.00 am

A handwritten signature in black ink that reads "Huw Evans". The signature is written in a cursive style with a large initial 'H' and 'E'.

**Huw Evans**

**Head of Democratic Services**

**Thursday, 2 February 2017**

**Contact: Democratic Services - Tel: (01792) 636923**

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## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COUNCIL CHAMBER, GUILDHALL, SWANSEA ON FRIDAY,  
13 JANUARY 2017 AT 10.00 AM

**PRESENT:** Councillor P M Matthews (Chair) Presided

**Councillor(s)**

C Anderson  
J P Curtice  
P Lloyd  
C L Philpott

**Councillor(s)**

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

**Councillor(s)**

A M Cook  
V M Evans  
H M Morris

**Officer(s)**

L Anthony  
R Jenkins  
G White  
S Woon

Divisional Officer, Licensing, Food and Safety  
Licensing Officer  
Legal Officer  
Democratic Services Officer

70 **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.

71 **MINUTES:**

**RESOLVED** that the minutes of the General Licensing Committee held on 9 December, 2016, be agreed as a correct record.

72 **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)**

73 **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 - AGB.**

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

GJ, Licensing Officer, Neath Port Talbot Council, referred to his written statement and answered Members questions.

AGB explained the circumstances of the caution and answered Members questions.

**RESOLVED** that AGB's application for the grant of a Restricted Hackney Carriage and Private Hire Driver's Licence be **REFUSED under Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976**

**Reason for Decision**

1. The onus was on the Applicant to demonstrate that the applicant was a fit and proper person to hold a licence. The Applicant had failed to satisfy the Committee that they were a fit and proper person to hold a licence.
2. On the balance of probabilities that a refusal of the application was necessary in order to safeguard vulnerable persons as the Committee were satisfied that the Applicant's conduct had been both negligent and irresponsible.
3. The Applicant had failed to satisfy the Committee that if a licence was granted, that they did not pose a threat to the public.
4. The Applicant's evidence at the hearing was at times contradictory to the evidence given. The explanations surrounding the application were not considered to be adequate.

74 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DUAL BADGE DRIVER - BADGE NUMBER 2327 - ALD.**

The Divisional Officer, Licensing, Food & Safety, detailed the background in respect of ALD and answered Members questions.

ALD explained the circumstances of the endorsements and answered Members questions.

**RESOLVED** that ALD be issued with a strong warning letter and ALD's Hackney Carriage and Private Hire Driver's Licence be **SUSPENDED FOR ONE MONTH under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.**

**Reason for Decision**

1. The Committee felt the applicant should be concentrating on his driving.
2. The Committee were concerned as to the Applicant's attitude towards driving, as in the past, their attitude appeared careless. Taxi drivers hold a very responsible position by ensuring the public are able to travel safely and securely.
3. At a previous General Licence Committee, the Committee decided to renew the Applicant's dual licence and provided the Applicant with an opportunity to prove themselves following their traffic offences. The Applicant has not demonstrated to the Committee that they have addressed their attitude towards traffic offences particularly as passengers were on board.

75 **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 - ELL.**

The Divisional Officer, Licensing, Food & Safety, detailed the background in respect of ELL and answered Members' questions.

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

**RESOLVED** that;

- a) ELL's application for the grant of a Hackney Carriage and Private Hire Driver's Licence be **APPROVED under Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976**; and
- b) ELL be issued with a strong warning letter regarding future conduct.

76 **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 - KMH.**

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

KMH explained the circumstances of the endorsements and answered Members questions.

**RESOLVED** that:

- a) KMH's application for the grant of a Restricted Hackney Carriage and Private Hire Driver's Licence be **APPROVED under Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976**;
- b) KMH be issued with a strong warning letter regarding future conduct.

77 **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 - MT.**

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

MT explained the circumstances of the caution and answered Members questions.

**RESOLVED** that:

- a) MT's application for the grant of a Restricted Hackney Carriage and Private Hire Driver's Licence be **APPROVED under Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976**; and
- b) MT be issued with a strong warning letter regarding future conduct.

The meeting ended at 11.34 am

**CHAIR**

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

### General Licensing Committee - 10 February 2017

#### 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 & 9	12, 13 & 18
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	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
<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. Their 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 they 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. Their 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 they 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. Their view on the public interest test was that:</p> <ul style="list-style-type: none"> <li>a) Whilst they were 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</li> <li>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</li> </ul> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis they 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. Their view on the public interest test was that whilst they are mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them they were 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 they 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. Their 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 they 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. Their 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 they 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.

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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 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

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.

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# 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.

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By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
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