

# 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 March 2017

**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

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<b>1 Apologies for Absence.</b>	
<b>2 Disclosures of Personal and Prejudicial Interest.</b> <a href="http://www.swansea.gov.uk/disclosuresofinterests">www.swansea.gov.uk/disclosuresofinterests</a>	
<b>3 Minutes:</b> To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 4
<b>4 Exclusion of the Public.</b>	5 - 8
<b>5 Local Government (Miscellaneous Provisions) Act 1976 - Dual Badge Driver - JBH.</b>	9 - 13
<b>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 - LJP.</b>	14 - 25
<b>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 - DP.</b>	26 - 29
<b>8 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 - DAH.</b>	30 - 37
<b>9 Local Government (Miscellaneous Provisions) Act 1976 - Dual Badge Driver - SH.</b>	38 - 46

**Next Meeting:** Friday, 21 April 2017 at 10.00 am



**Huw Evans**

**Head of Democratic Services**

**Thursday, 2 March 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,  
10 FEBRUARY 2017 AT 10.00 AM

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

**Councillor(s)**

C Anderson  
J P Curtice  
K E Marsh  
T H Rees

**Councillor(s)**

A C S Colburn  
P Downing  
H M Morris

**Councillor(s)**

A M Cook  
V M Evans  
C L Philpott

**Officer(s)**

B Gilbert	Senior Transport Officer
R Jones	School Transport Officer
R Jenkins	Licensing Officer
Y Lewis	Senior Licensing Officer
L Thomas	Senior Lawyer
S Woon	Democratic Services Officer

**Apologies for Absence**

Councillor(s): P Lloyd

78 **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 Anderson – Personal & Prejudicial – Minute No. – Equality Act 2010 – Passengers in Wheelchairs – Request for an Exemption Certificate – WCS – I know the person. Councillor C Anderson left the meeting prior to consideration of this item.

Councillor C Anderson – Personal & Prejudicial – Minute No. – Local Government (Miscellaneous Provisions) Act 1976 – Dual Badge Driver - DJM – I know the person. Councillor C Anderson left the meeting prior to consideration of this item.

Councillor V M Evans – Personal & Prejudicial – Minute No. – Local Government (Miscellaneous Provisions) Act 1976 – Dual Badge Driver - DJM – I am aware of the applicant. Councillor V M Evans left the meeting prior to consideration of this item.

79 **MINUTES:**

**RESOLVED** that the minutes of the General Licensing Committee held on 13 January, 2017 be agreed as a correct record.

80 **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)**

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

The Senior Transport Officer, detailed the background in respect of MJW and answered Members questions.

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

**RESOLVED** that MJW's appeal be **DISMISSED**.

**Reason for Decision**

The Committee had regard to 2008 Measure as to the requirement to provide suitable transport arrangements.

The Committee noted MJW's email but could only deal with it on the merits of his appeal and could not take other persons circumstances into consideration.

No expansion of convictions in 2013 were given by MJW in mitigation.

There was a clear pattern of offending with reoffending after 3 – 4 years .Only 3 years and 6 months since the last offence and the pattern shows reoffending after 4 years. The Committee decided to not apply guidelines and seek a longer period of no offending than 3 years to ensure going forward MJW will not reoffend.

MJW also indicated he had only abstained from alcohol for 3 years therefore the Committee wanted to see longer period to be sure he would meet the criteria required.

Approval sought could put MJW in difficult circumstances and whilst it was noted that MJW had attended an anger management course the Committee were not satisfied

having heard from MJW would be able to deal with issues appropriately although noted MJW was driving for Bridgend without any issues according to MJW.

82 **EQUALITY ACT 2010 - PASSENGERS IN WHEELCHAIRS - REQUEST FOR AN EXEMPTION CERTIFICATE - WCS.**

The Senior Licensing Officer detailed the background in respect of WCS and answered Members questions.

WCS outlined the circumstances of the request and answered Members' questions.

**RESOLVED** that WCS request be **APPROVED**.

83 **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.**

HF failed to attend the meeting and the Committee resolved to deal with it in his absence.

The Senior Licensing Officer detailed the background in respect of HF and answered Members questions.

**RESOLVED** that:

1. The matter be dealt with in HF's absence;
2. HF's application for the Grant of a Restricted Hackney Carriage and Private Hire Driver's Licence be **APPROVED Subject to a written warning being issued addressing the standards expected of licensed drivers.**

84 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DUAL BADGE DRIVER - DJM.**

The Senior Licensing Officer advised the Committee that DJM had written a letter advising he was unable to attend the meeting and offered mitigation for Members' consideration.

The Senior Licensing Officer detailed the background in relation to DJM and answered Members questions.

**RESOLVED** that;

1. The matter be dealt with in DJM's absence;
2. Renewal of DJM's Hackney Carriage and Private Hire Driver Licences be **REFUSED under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976;**
3. No further action be taken in respect of the restricted private hire vehicle, hackney carriage vehicles and private hire vehicles held by DJM.

**Reason for Decision**

The Committee felt that DJM had held a licence with the Authority for a considerable time and would therefore know the conditions and byelaws that applied. Also in January 2016, DJM had been sent a warning letter regarding his failure to inform the Authority of the June July and August convictions. DJM having had that warning letter then failed to inform the Authority of the March 2016 conviction which demonstrated a total disregard to the procedures.

As he had committed four speeding offences in four months the Committee were not satisfied DJM was acting out of character and would pose a threat to the safety of the travelling public. The Committee noted the magistrates had taken DJM's personal circumstances into account when deciding not to take away his licence having accrued 12 penalty points but the Committee could not take that into account when considering whether he was fit and proper to hold a licence.

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

The Senior Licensing Officer detailed the background in respect of CTH and answered Members questions.

CTH, accompanied by Mr Warren, Solicitor, outlined the circumstances of the endorsements/convictions and answered Members' questions.

The Lawyer advising the Committee read out references in support of CTH's application and a certificate submitted by Mr Warren.

**RESOLVED** that CTH's application for a 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**

The Committee were not satisfied by CTH he was a fit and proper person on the basis only 16 months had elapsed since his licence had been restored and the Committee was of the opinion that there had been no significant change since 2016. CTH had failed to disclose the nature of the offence committed in March 2015 which led to the last totting up offence. As there was no evidence before the Committee as to the nature of the last offence and whether it was another minor or major traffic offence the Committee were unable to consider the appropriate guideline to apply in order to ensure the safety of the travelling public.

The meeting ended at 11.46 am

**CHAIR**

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

### General Licensing Committee - 10 March 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.

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  
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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  
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as amended by the Local Government (Access to  
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# Agenda Item 9

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