



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, 13 October 2017

Time: 10.00 am

Chair: Councillor Penny Matthews

Membership:

Councillors: C Anderson, J P Curtice, P Downing, V M Evans, S J Gallagher, P Lloyd, H M Morris, C L Philpott, B J Rowlands, L G Thomas and L V Walton

Agenda

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|----------|---|----------------|
| 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 - 4 |
| 4 | Result of Appeals. (For Information) | 5 - 7 |
| 5 | Exclusion of the Public. | 8 - 11 |
| 6 | Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver's Licence - MHIF. | 12 - 17 |
| 7 | Local Government (Miscellaneous Provisions) Act 1976 - Restricted Dual Badge Driver - RO. | 18 - 21 |
| 8 | Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver's Licence - KD. | 22 - 26 |

Next Meeting: Friday, 10 November 2017 at 10.00 am

Huw Evans

**Huw Evans
Head of Democratic Services
Thursday, 5 October 2017**

Contact: Democratic Services - Tel: (01792) 636923



City and County of Swansea

Minutes of the **General Licensing Committee**

Council Chamber, Guildhall, Swansea

Friday, 8 September 2017 at 10.00 am

Present: P M Matthews (Chair) Presided

Councillor(s)

V M Evans
C L Philpott
L V Walton

Councillor(s)

P Lloyd
B J Rowlands

Councillor(s)

H M Morris
L G Thomas

Officer(s)

Lynda Anthony
Aled Gruffydd
Yvonne Lewis
Samantha Woon

Divisional Officer, Licensing, Food and Safety
Lawyer
Senior Licensing Officer
Democratic Services Officer

Apologies for Absence

Councillor(s): C Anderson, J P Curtice, P Downing and S J Gallagher

37 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.

38 Minutes:

Resolved that the minutes of the General Licensing Committee held on 11 August, 2017 be **agreed** as a correct record.

39 Equality Act 2010.

The Divisional Officer, Licensing, Food and Safety presented a report in relation to Section 165 and 167 of the Equality Act 2010.

Members noted the background, requirements of the Equality Act 2010 and Officer Observations.

Resolved that a list of designated vehicles be published and maintained in accordance with the Equality Act 2010.

40 Response to Welsh Government Consultation Document - Taxi and Private Hire Vehicle Licensing in Wales.

The Divisional Officer, Licensing, Food and Safety, presented a report which detailed the Welsh Government Consultation document issued on 12 June, 2017 which sought views on the framework for licensing taxis and private hire vehicles proposed by the Law Commission for England and Wales.

Members noted the executive summary, the consultation and response for consideration.

Resolved that the response detailed at Appendix B of the report be submitted to the Welsh Government for consideration.

41 Proposal to Amend Restricted Private Hire Vehicle Condition 23.

The Divisional Officer, Licensing, Food and Safety, presented a report which sought consideration of amending the existing condition which stipulates where the licence must be displayed on the vehicle.

Members noted the current condition, background and proposals.

Resolved that the restricted private hire vehicle condition 23 be amended to state the following:

“Vehicle plates and stickers must be securely fixed to the vehicle. The vehicle plate is to be fixed on the bumper bar or boot lid/rear door between centre line and the offside of the vehicle. Stickers must be affixed to the front near and offside doors of the vehicle. The plate and stickers must be kept clearly visible at all times. The vehicle plate must be returned to the Council on expiry of the licence.”

42 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)

43 Local Government (Miscellaneous Provisions) Act 1976 - Application for a private hire operator licence - UBL.

The Divisional Officer, Licensing, Food and Safety, detailed the background in respect of UBL's application for a Private Hire Operators Licence.

UBL explained the circumstances of the request and answered Members questions relating to the matter.

Resolved that UBL's request be **refused**.

Reason for Decision

The Committee did not believe that UBL was a Fit and Proper Person due to UBL's inability to comply with Condition 22.

44 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for hackney carriage and private hire driver's licence - II.

The Divisional Officer, Licensing, Food and Safety, detailed the background in respect of II's application for a Hackney Carriage and Private Hire Driver's Licence.

II explained the circumstances of the request and answered Members questions relating to the matter.

Resolved that:

- 1) II's licence be granted under Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 until 10 December, 2017; and
- 2) The proposed free of £87.00 for a period of 3 months is approved for the grant of this licence; and
- 3) The fee for the 3 month licence is added to the table of fees in paragraph 8 of the report.

45 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for hackney carriage and private hire driver's licence - MHIF.

The Divisional Officer, Licensing, Food and Safety, advised that MHIF had failed to attend the meeting and had not provided any reason for absence.

Officers provided advice.

Resolved that the matter be **deferred** to the next available meeting.

46 Equality Act 2010, Passengers in Wheelchairs - Request for an Exemption Certificate - MAC.

The Divisional Officer, Licensing, Food and Safety, detailed the background in respect of MAC's application for an Exemption Certificate.

MAC explained the circumstances of the request and answered Members questions relating to the matter.

Resolved that MAC's request for an exemption certificate be **approved** until 12 July 2018.

The meeting ended at 11.15 am

Chair



Report of the Divisional Officer Licensing, Food & Safety

General Licensing Committee 13 October 2017

For Information Only

Result of Appeals

NAME	COURT	DATES	OFFENCE	RESULT
Julie Webber	Swansea Magistrates Court	4 th July 2017	<p>Appeal against the decision of the General Licensing Committee not to grant hackney carriage and private hire driver licences on 21st April 2017.</p> <p>The reasons for the decision of the Licensing Committee were that Members were not satisfied that Ms Webber was a fit and proper person giving the following reasons:</p> <ol style="list-style-type: none"> 1. A taxi driver holds a very responsible position & a large number of persons depend on taxi drivers in or around the Swansea area. It is paramount, therefore, that a driver is a fit and proper person. 2. The Committee were satisfied the convictions for theft in 2015 were very serious. 3. The Committee heard orally from Julie Webber, and the contents of both letters – including one from the local MP - were read. The Committee considered 	<p>Appeal upheld</p> <p>No costs were awarded against the Authority.</p>

			<p>whether it should depart from its Guidelines. Ultimately, due to the severity of the convictions, Members were not satisfied that it was appropriate to reasonably depart from the Guidelines having regard to all the circumstances.</p> <p>4. Members were not satisfied that Julie Webber was a fit and proper person and the Committee considered it necessary to apply the Guidelines which requires a driver should be able to demonstrate a period of three to five years free of any convictions.</p> <p>The Magistrates upheld the Appeal stating that they had considered all the information put before them and they considered that the Appellant was a fit and proper person.</p>	
Allan Leslie Rees	Swansea Magistrates Court	19 th September 2017	<p>Appeal against the decision of the Licensing Committee to refuse to renew an application for Restricted Private Hire and Hackney Carriage licences.</p> <p>The reasons for the refusal were that</p> <p>1. The Committee did not deem Mr Rees to be a fit and proper person.</p> <p>2. The Committee considered the nature of the convictions to be more than minor offences and in light of the number of convictions the committee felt further action was needed to protect the travelling public.</p> <p>3. Having heard Mr Rees' explanations for the</p>	<p>Appeal Upheld.</p> <p>Full costs were awarded against the Authority totalling £658.00</p>

			<p>convictions Members felt that Mr Rees was not acting out of character and has and would continue to disregard the obligations to comply with other legal requirements expected of him.</p> <p>.</p> <p>The Magistrates upheld the Appeal stating that they had considered all of the information put before them and accepted the explanation of Mr Rees and found him to be a fit and proper person.</p> <p>Costs were ordered in full against the Local Authority in the sum of £658.00 as they found them to be <i>'just and reasonable'</i>.</p>	
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Agenda Item 5



Report of the Head of Legal, Democratic Services & Business Intelligence

General Licensing Committee – 13 October 2017

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	12, 13 & 18
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Tracey Meredith – Head of Legal, Democratic Services & Business Intelligence (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. 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>
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. 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>
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. Their view on the public interest test was that:</p> <p>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</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 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	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.
	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.
16	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
	No public interest test.
17	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.
	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.
18	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
	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.

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.

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.

Document is Restricted

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