



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 March 2018

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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www.swansea.gov.uk/disclosuresofinterests | |
| 3 | Minutes:
To approve & sign the Minutes of the previous meeting(s) as a correct record. | 1 - 6 |
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| 5 | Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 - Equality Act 2010 - Passengers in Wheelchairs - Request for an Exemption Certificate - ZK. | 11 - 17 |
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Next Meeting: Friday, 13 April 2018 at 10.00 am

Huw Evans

**Huw Evans
Head of Democratic Services
Thursday, 1 March 2018**

Contact: Democratic Services - Tel: (01792) 636923



City and County of Swansea

Minutes of the Special **General Licensing Committee**

Council Chamber, Guildhall, Swansea

Thursday, 18 January 2018 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)

C Anderson
S J Gallagher
B J Rowlands

Councillor(s)

P Downing
P Lloyd
L G Thomas

Councillor(s)

V M Evans
C L Philpott
L V Walton

Officer(s)

A Evans	Senior Environmental Health Officer
C James	Senior Environmental Health Officer
P Livingstone	Team Leader
S Richards	Principal Lawyer
L Thomas	Senior Lawyer
S Woon	Democratic Services Officer

Apologies for Absence

Councillor(s): J P Curtice and H M Morris

77 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 S J Gallagher – Minute No. 81 - Personal and Prejudicial – HMO Licensing – Housing Act 2004, Fit and Proper Person Status – AL is a neighbour. Councillor S J Gallagher left prior to consideration of this item.

Councillor L V Walton – Minute No. 81 - Personal and Prejudicial – HMO Licensing – Housing Act 2004, Fit and Proper Person Status – AL is known to me through his family's restaurants. Councillor L V Walton left prior to consideration of this item.

78 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)

79 HMO Licensing - Housing Act 2004, Fit and Proper Person Status - PA.

The Team Leader detailed the background in respect of HMO Licensing, Housing Act 2004, Fit and Proper Person Status in relation to PA.

Members asked questions of the Officer who responded accordingly.

PA explained the circumstances relating to the offences and answered Members' questions.

Resolved that:

1. PA was not a fit and proper person for purposes of s64 of the Housing Act 2004:
2. PA's applications for the grant of two HMO licences be **refused**; and
3. PA's existing HMO licence be **revoked**.

Reason for Decision

The Committee was of the opinion that PA's previous experience as an HMO licence holder should have prevented him from making the errors PA did which resulted in a prosecution for housing offences. Committee was not persuaded by PA's oral testimony that satisfactory management arrangements were in place at the HMOs and that he took a reactive rather than proactive approach to management.

80 HMO Licensing - Housing Act 2004, Fit and Proper Person Status - PW.

The Team Leader detailed the background in respect of HMO Licensing, Housing Act 2004, Fit and Proper Person Status in relation to PW.

Members asked questions of the Officer who responded accordingly.

PW explained the circumstances relating to the offences and answered Members' questions.

Resolved that PW was not a fit and proper person for purposes of s64 of the Housing Act 2004 and that the HMO licences in respect of the properties listed on page 23 of the report be **revoked**.

Reasons for Decision

The Committee resolved that PW was not a fit and proper person for the purposes of s64 of the Housing Act 2004 for the following reasons:

The Committee was of the opinion that PW's previous experience as an HMO licence holder should have prevented him from making the errors PW did which resulted in a prosecution for housing offences. Committee was not persuaded by PW's oral testimony that satisfactory management arrangements were in place at the HMOs and that he took a reactive rather than proactive approach to management.

81 HMO Licensing - Housing Act 2004, Fit and Proper Person Status - AL.

The Team Leader, detailed the background in respect of HMO Licensing, Housing Act 2004, Fit and Proper Person Status in relation to AL.

Members asked questions of the Officer who responded accordingly.

Mr S, AL's Legal Representative, explained the circumstances relating to the offences and provided detailed mitigation on his client's behalf.

Resolved that AL was not a fit and proper person for purposes of s64 of the Housing Act 2004 and that AL's existing HMO licence be revoked and five licence applications for the first five properties detailed on page 32 of the report be **revoked**.

Reasons for Decision

The Committee resolved that AL was not a fit and proper person for the purposes of s64 of the Housing Act 2004 for the following reasons:

The Committee was of the opinion that AL's previous experience as an HMO licence holder should have prevented him from making the errors AL's did which resulted in a prosecution for housing offences. Committee was not persuaded by AL's oral testimony that satisfactory management arrangements were in place at the HMOs and that he took a reactive rather than proactive approach to management.

The meeting ended at 12.45 pm

Chair



City and County of Swansea

Minutes of the **General Licensing Committee**

Council Chamber, Guildhall, Swansea

Friday, 9 February 2018 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)

C Anderson
S J Gallagher
B J Rowlands

Councillor(s)

J P Curtice
P Lloyd
L V Walton

Councillor(s)

P Downing
H M Morris

Officer(s)

Lynda Anthony
Kath Thomas
Lyndsay Thomas
Samantha Woon

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

Apologies for Absence

Councillor(s): V M Evans, C L Philpott and L G Thomas

82 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.

83 Minutes.

Resolved that the minutes of the General Licensing Committee held on 12 January, 2018, be agreed as a correct record.

84 Request for Exemption from Displaying Door Decals - Restricted Private Hire Vehicle.

The Divisional Officer, Licensing, Food & Safety, stated that Mr Lang had notified the Licensing Division stating that he was unable to attend the meeting of the General Licensing Committee and wished for his request for Exemption from displaying door decals on his restricted private hire vehicle to be considered in his absence or if this was not possible for his request to be deferred due to his work commitments and the short notice which he received for this meeting.

In response to Member questions, the Divisional Officer, Licensing, Food & Safety confirmed that a notification letter had been despatched, via first class mail, on Friday, 2 February 2018 and that Mr Lang had been verbally informed prior to this date of his requirement to attend.

The Committee resolved to consider the matter in Mr Lang's absence.

The Divisional Officer, Licensing, Food & Safety, reported that Mr Lang submitted a request, on 22 December 2017, from displaying door stickers on his restricted private hire vehicle RV 293. The reasons for the request were that the only jobs which the vehicle would be used for were weddings, executive hire and airports and by not displaying the door stickers the vehicle would look less like a taxi and more appealing to executive clients. The vehicle would not be used for school runs.

Members noted the current condition in respect of restricted private hire vehicles to display licence plates and door stickers.

Members asked questions of the Officer who responded accordingly.

Resolved that:

1. The matter be dealt with in Mr Lang's absence;
2. the request by Mr Lang for an exemption from displaying door stickers on his restricted private hire vehicle RV 293 be **refused**.

Reasons for Decision

Having regard to the report and why the conditions were introduced Members were not satisfied that passenger safety would not be compromised. The Members noted Mr Lang's exemption would only apply to when the vehicle was being used for executive hire however it was still a licensed vehicle and Members were concerned of the safety of the travelling public and ease of vehicle identification.

The members were not satisfied that if the vehicle was to be driven by other drivers then they may forget to put the door decals back on the vehicle for airport runs.

There was no information provided by Mr Lang that persuaded Committee it was reasonable to depart from the requirement to display door decals.

85 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.

Resolved that the public be excluded for the following items of business.

(Closed Session)

86 Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 - Application for the Grant of Hackney Carriage and Private Hire Driver's Licence - RPR.

The Divisional Officer, Licensing, Food & Safety, detailed the background in respect of RPR's application for the grant of a hackney carriage and private hire driver's licence.

Members asked questions of the Officer who responded accordingly.

RPR explained the circumstances relating to the request and answered Members' questions.

Resolved that RPR's request for the grant of a hackney carriage and private hire driver's licence be **approved** and a letter advising of the standards expected of a driver licensed with Swansea Council be sent with the licence to RPR.

87 Immediate Action Update.

The Immediate Action Update was **noted**.

The meeting ended at 10.38 am

Chair



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

General Licensing Committee – 9 March 2018

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
	5, 6, 7, 8 & 9	12 & 13 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 5

By virtue of paragraph(s) 12, 13 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 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 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 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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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.

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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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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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