



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, 11 May 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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Next Meeting: Friday 8 June 2018 at 10am

A handwritten signature in black ink that reads 'Huw Evans'.

Huw Evans
Head of Democratic Services
Thursday, 3 May 2018

Contact: Democratic Services - Tel: (01792) 636923



City and County of Swansea

Minutes of the **General Licensing Committee**

Council Chamber, Guildhall, Swansea

Friday, 13 April 2018 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)

C Anderson
V M Evans
H M Morris
L G Thomas

Councillor(s)

J P Curtice
S J Gallagher
C L Philpott
L V Walton

Councillor(s)

P Downing
P Lloyd
B J Rowlands

Officer(s)

L Anthony
A Gruffydd
P Livingstone
K Thomas
S Woon

Divisional Officer, Licensing, Food and Safety
Lawyer
Team Leader, Housing and Public Health
Licensing Officer
Democratic Services Officer

96 **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 – Personal – Minute No. 101 – HMO Licensing Act 2004, Appeal to Residential Property Tribunal – AL – applicant is known to me.

Councillor C L Philpott – Personal – Minute No. 102 – Town Police Clauses Act 1947 – Local Government (Miscellaneous Provisions) Act 1976 – Application for the Grant of a Restricted Hackney Carriage and Private Hire Driver's Licence – SPW – Realised when applicant referred to 'Bishop Gore' I had previous knowledge of the circumstances. Councillor C L Philpott left prior to the decision being reached.

Councillor L V Walton – Personal – Minute No. 101 – HMO Licensing Act 2004, Appeal to Residential Property Tribunal – AL – applicant is known to me.

97 **Minutes.**

Resolved that the minutes of the General Licensing Committee held on 9 March, 2018 be agreed as a correct record.

98 Equality Act 2010 - Approval Arrangements for Medical Exemptions.

The Divisional Officer, Licensing, Food & Safety presented a report in respect of the approval of future applications for medical exemptions from carrying passengers in wheelchairs.

Members' noted the background, current and proposed procedure.

Members' asked questions of the Officer who responded accordingly.

Resolved that:

- 1) The proposals set out in paragraph 4 of the report be **approved** and officers be authorised to approve medical exemption certificates as follows:
 - a) Where time limited requests are made by drivers and supporting documentation is satisfactory, approval be granted by Officers on behalf of the General Licensing Committee;
 - b) If there are queries in respect of a request or where the supporting documentation is not satisfactory, Licensing Officers will refer the request to the General Licensing Committee for decision; and
 - c) All requests for a medical exemption certificate that are not time limited will be referred to the General Licensing Committee for decision.

99 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)

100 HMO Licensing - Housing Act 2004, Appeal to Residential Property Tribunal - PA.

The Team Leader detailed the background in respect of HMO Licensing, Housing Act 2004, Appeal to the Residential Property Tribunal by PA.

Members asked questions of the Officer who responded accordingly. It was noted that a further report would be submitted to the Committee regarding the outcome of the appeal.

101 HMO Licensing - Housing Act 2004, Appeal to Residential Property Tribunal - AL.

The Team Leader detailed the background in respect of HMO Licensing, Housing Act 2004, Appeal to the Residential Property Tribunal by AL.

Members asked questions of the Officer who responded accordingly. It was noted that a further report would be submitted to the Committee regarding the outcome of the appeal.

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

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

SPW explained the circumstances relating to the matter and answered Members' questions.

Resolved that SPW's application for the grant of a restricted hackney carriage and private hire driver's licence be **approved for 12 months**.

Reason for Decision

Whilst the Committee were mindful of the progress made by SPW since the incident, they were of the opinion that an initial licence for 12 months would allow SPW to evidence her ability to manage future challenging situations.

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

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

Members asked questions of the Officer who responded accordingly.

JLC, accompanied by Mr W, legal representative, explained the circumstances relating to the matter and answered Members' questions.

Resolved that JLC's application for the grant of a restricted hackney carriage and private hire driver's licence be **refused**.

Reason for Decision

The Committee did not believe that JLC was a fit and proper person to hold a restricted hackney carriage and private hire driver licence as he had been deceitful in failing to give a specimen and there was no indication of asthma in the medical

submitted and also not enough time had elapsed from the end of the disqualification period.

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

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

JMP explained the circumstances relating to the matter and answered Members' questions.

The Lawyer advising the Committee read a reference of support from A C Jenkins, Travel Services.

Resolved that JMP's application for the grant of a restricted hackney carriage and private hire driver's licence be **approved for a period of 12 months**.

Reason for Decision

The Committee were mindful that 15 months had elapsed since the offence and JMP did not appear to take his previous speeding convictions seriously.

105 Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 - Dual Driver - DAH.

The Divisional Officer, Licensing, Food and Safety, advised that DAH had failed to attend the meeting and no explanation had been received.

Members' resolved to consider the matter in the absence of DAH.

Members asked questions of the Officers who responded accordingly.

Resolved that:

- 1) The matter be considered in DAH's absence; and
- 2) DAH's request for renewal of the hackney carriage and private hire driver's licences be **refused**.

Reason for Decision

The Committee were of the opinion that DAH was not a fit and proper person because he was dishonest in obtaining his licence by not declaring his recent conviction and no satisfactory explanations could be obtained from DAH due to his non-attendance.

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

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

Members asked questions of the Officers who responded accordingly.

TAA explained the circumstances relating to the matter and answered Members' questions.

Resolved that:

- 1) TAA's application for the grant of a restricted hackney carriage and private hire driver's licence be **approved for 12 months**; and
- 2) Within 3 months of the licence being granted, written confirmation is received in the Licensing Section from TAA's General Practitioner stating that TAA continues to meet Group 2 Medical Standards.
- 3) TAA be subject to an annual satisfactory medical certificate issued by his own General Practitioner to be submitted to the Licensing Authority prior to the licence being renewed.

107 Immediate Action Update.

The Immediate Action Update was **noted**.

The meeting ended at 12.20 pm

Chair



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

General Licensing Committee – 11 May 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 Nos.	Relevant Paragraphs in Schedule 12A
	5 & 6	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> <ul style="list-style-type: none"> 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 b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts. <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>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. 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>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:</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(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. 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>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. 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.

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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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