



Dinas a Sir Abertawe

Hysbysiad o Gyfarfod

Fe'ch gwahoddir i gyfarfod

Pwyllgor Trwyddedu Cyffredinol

Lleoliad: Siambr y Cyngor, Neuadd y Ddinas, Abertawe

Dyddiad: Dydd Gwener, 13 Gorffennaf 2018

Amser: 10.00 am

Cadeirydd: Cyngorydd Penny Matthews

Aelodaeth:

Cynghorwyr: C Anderson, J P Curtice, N J Davies, P Downing, S J Gallagher, P Lloyd, H M Morris, C L Philpott, B J Rowlands, L G Thomas a/ac L V Walton

Agenda

Rhif y Dudalen.

- 1 Ymddiheuriadau am absenoldeb.
- 2 Derbyn datgeliadau o fuddiannau personol a rhagfarnol.
www.abertawe.gov.uk/DatgeliadauBuddiannau
- 3 **Cofnodion:** 1 - 3
Cymeradwyo a llofnodi cofnodion y cyfarfod(ydd) blaenorol fel cofnod cywir.
- 4 **Deddf Cyfrifoldebau Heddluoedd Tref 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais am Drwydded Yrru Gyfyngedig ar gyfer Cerbyd Hacni a Hurio Preifat - VW Caddy Maxi - NK58 GXL.** 4 - 6
- 5 **Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais am Eithrio rhag Arddangos Sticeri Drws a Phlât Trwydded - Cerbyd Hurio Preifat Gyfyngedig RV 178 and 308 - Mr Paul Matthews.** 7 - 11
- 6 **Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais am Eithrio rhag Arddangos Sticeri Drws a Phlât Trwydded - Cerbyd Hurio Preifat Gyfyngedig RV 181, 208 and 245 - Mr Paul Thomas Finch.** 12 - 16
- 7 **Gwahardd y cyhoedd.** 17 - 20
- 8 **Deddf Cyfrifoldebau Heddluoedd Tref 1847 - Deddf Llywodraeth** 21 - 32

- Leol (Darpariaethau Amrywiol) 1976 - Trwydded Cerbyd Hacni a Gyrrwr Hurio Preifat - NM.**
- 9 Deddf Cyfrifoldebau Heddluoedd Tref 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Trwydded Cerbyd Hacni/Hurio Preifat Gyfyngedig - SAC. 33 - 36**
- 10 Deddf Cyfrifoldebau Heddluoedd Tref 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais am Drwydded Yrru Gyfyngedig ar gyfer Cerbyd Hacni a Hurio Preifat - GRJ. 37 - 41**
- 11 Deddf Cyfrifoldebau Heddluoedd Tref 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais am Drwydded Yrru Gyfyngedig ar gyfer Cerbyd Hacni a Hurio Preifat - ML. 42 - 60**
- 12 Y Diweddaraf am y Camau Gweithredu Uniongyrchol. 61**

Cyfarfod Nesaf: Dydd Gwener, 10 Awst 2018 ar 10.00 am

Huw Evans

**Huw Evans
Pennaeth Gwasanaethau Democraidd
Dydd Iau, 5 Gorffennaf 2018**

Cyswllt: Gwasanaethau Democraidd - Ffon: (01792) 636923



City and County of Swansea

Minutes of the **General Licensing Committee**

Council Chamber - Guildhall, Swansea

Friday, 8 June 2018 at 10.00 am

Present: P M Matthews (Chair) Presided

Councillor(s)

C Anderson
P Lloyd
B J Rowlands

Councillor(s)

J P Curtice
H M Morris
L G Thomas

Councillor(s)

P Downing
C L Philpott
L V Walton

Officer(s)

Lynda Anthony
Aled Gruffydd
Kath Thomas
Samantha Woon

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

Apologies for Absence

Councillor(s): N J Davies and S J Gallagher

5 **Disclosures of Personal and Prejudicial Interest.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interest was declared:

Councillor C Anderson – Minute No. 9 – 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 – LM - Personal – I know LM’s father.

6 **Minutes.**

Resolved that the minutes of the General Licensing Committee held on 11 May, 2018 and 24 May, 2018 be agreed as a correct record.

7 **Gower Executive Travel - Request for Exemption from Displaying Door Stickers and Licence Plate.**

The Divisional Officer, Licensing, Food & Safety advised that Mr Jones had submitted a request for an exemption from displaying the door stickers and licence plate on the exterior of his restricted private hire vehicle, RV 305. The reason for the request was that he had recently set up a business as Gower Executive Travel with his wife and they only had one licensed vehicle which was used for airport travel, executive private hire and as their own private car.

Mr Jones was also hoping to do wedding transport and feels that by placing the badges on the exterior of the vehicle it would spoil the opportunity for photographs for the hirers and would therefore lose him business. Mr Jones has confirmed that he has no intention of using the vehicle for school runs.

Members' noted the current condition and asked questions of both the Officer and Mr Jones. Members' also examined photographs of the vehicle.

Resolved that Mr Jones request for an exemption from displaying the door stickers and licence plate on the exterior of his restricted private hire vehicle, RV 305 be **Granted** with the following conditions:

1. The restricted licence issued by the Council must be displayed in the front windscreen of the vehicle on the nearside. It must be clearly visible at all times when the vehicle is being used for executive hire and airport travel. The vehicle licence must be returned to the Council on expiry;
2. This exemption does not apply if the vehicle is to be used for school transport;
3. Members further resolved that restricted private hire vehicle condition 23 be reviewed and reported back to a future meeting.

8 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)

9 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 - LM.

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

LM, accompanied by Mr W, Solicitor, explained the circumstances relating to the application and answered Members' questions.

Resolved that LM's request for the grant of a hackney carriage and private hire driver's licence be **approved**.

10 Immediate Action Update.

The Immediate Action Update was noted.

The meeting ended at 10.46 am

Chair



**Report of the Licensing and
Food & Safety Manager
General Licensing Committee
13th July 2018**

**Town Police Clauses Act 1847/Local Government
(Miscellaneous Provisions) Act 1976 – Application for
the Grant of a Licence for a Hackney Carriage Vehicle,
VW Caddy Maxi – Registration mark NK58 GXL**

1. Introduction

- 1.1 An application for the grant of a hackney carriage vehicle licence has been received from Mr Wayne Harris of PW & EK Harris Taxi Hire Ltd. The vehicle is a black Volkswagen Caddy Maxi MPV Registration Mark NK58 GXL and is capable of carrying 5 passengers.
- 1.2 The vehicle is not a purpose built vehicle but has been converted for use as a rear loading wheelchair accessible hackney carriage.

2. Background

- 2.1 In May 2003 an application was received for a Fiat Doblo to be licensed as a wheelchair accessible hackney carriage. The application was approved and the vehicle licence issued.
- 2.2 Following this, concerns about the suitability of the vehicle as a hackney carriage were raised by a number of members of the taxi trade on the basis that the wheelchair access for the vehicle was via the rear doors. Passengers would therefore be required to enter and exit the vehicle from the road. The trade were concerned that this presented a risk to safety of both the passenger and the driver. In view of this they requested that the Council re-examine the suitability of the vehicle before further licences were issued.
- 2.3 The licence Committee in June 2003 agreed to defer acceptance of future applications for this type of vehicle pending the outcome of the policy review.

- 2.4 In October 2003 a review of the policy for hackney carriage vehicles in relation to wheelchair accessibility was reported to Cabinet and subsequently reported to Council for approval. It was reported at Council that the Department for Transport had recently announced plans to introduce legal changes to the taxi licensing system and they were to commence a consultation process on the proposed standards for these vehicles. The findings of the consultation would form the basis of the regulations to emerge in the future. Swansea was named as one of the first phase Local Authorities that would have to implement the new policy and it was expected to begin in 2010.
- 2.5 The Cabinet Member for Environment, not wanting to prejudge the outcome of the consultation, decided to defer the review of the Councils' existing hackney carriage vehicle policy until the outcome of the Department for Transport consultation was known.
- 2.6 This matter has still not been concluded and accessible taxi policies remain a matter for individual Licensing Authorities.
- 2.7 Prior to the decisions referred to in paragraphs 2.3 and 2.5 of the report, 3 Fiat Doblos were licensed as hackney carriage vehicles by the Authority. In addition to 5 Volkswagen Sharan vehicles had previously been licensed as hackney carriage vehicles with the Authority.
- 2.8 Since this time there is only one remaining rear wheelchair accessible access hackney carriage vehicle licensed with the Authority and in keeping with the decision made at the time the vehicle, a Fiat Doblo has been licensed on merit since.
- 2.9 There are currently 22 restricted private hire vehicles licensed with the Authority that have rear access for wheelchairs. These vehicles have been licensed primarily to undertake school contract work.
- 3.0 Current Position**
- 3.1 Recent research undertaken has shown that at present rear wheelchair access vehicles are licensed in Cardiff, Bridgend, Vale of Glamorgan, Rhondda Cynon Taff, Gwynedd, Powys, Carmarthenshire and Neath & Port Talbot.
- 3.2 Members can consider requests to licence this type of vehicle based on the individual merits of the application received.

4.0 Current Application

4.1 The vehicle which is the subject of the current application was first registered on 22nd December 2008 and is 9yrs and 6 months old.

4.2 On 19th June 2018 the vehicle passed the Council's inspection.

5.0 Legislation relating to the licensing of Hackney Carriage Vehicles

Section 47 Licensing of hackney carriages

(1)A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary.

(2)Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.

(3)Any person aggrieved by any conditions attached to such a licence may appeal to a magistrates' court.

6.0 Recommendation

6.1 It is recommended that after careful consideration of the information contained in this report and hearing from Mr Wayne Harris of PW & EK Harris Taxi Hire Ltd, Members determine whether to:

- a) grant the application made by PW & EK Harris Taxi Hire Ltd to licence the VW Caddy Maxi, vehicle registration mark NK58 GXL as a rear wheelchair accessible hackney carriage; or
- b) refuse the application made by PW & EK Harris Taxi Hire Ltd to licence the VW Caddy Maxi, vehicle registration mark NK58 GXL as a rear wheelchair accessible hackney carriage giving full reasons for this decision.

The Licensing Committee's instructions are requested.

Background Papers:	Licence Application
Contact Officer:	Richard Jenkins
Extension:	5600
Legal Contact:	Lyndsay Thomas



**Report of the Licensing and
Food & Safety Manager
General Licensing Committee
13th July 2018**

**Local Government (Miscellaneous Provisions) Act
1976 – Restricted Private Hire Vehicle –
Request for Exemption from Displaying the Door
Stickers and the Licence Plate –
Restricted Private Hire Vehicle RV 178 and 308 –
Mr Paul Matthews**

1.0 Background

- 1.1 Mr Matthews is the restricted private operator of Direct Executive Travel and proprietor of 2 restricted private hire vehicles:
- RV 178 a blue Mercedes Viano, vehicle registration mark FL13 HLC, licence expiring 31st August 2018;
 - RV 308 a silver Hyundai i800, vehicle registration mark EO17 VJF, licence expiring 30th April 2019;

2.0 Current Condition

- 2.1 On 8th September 2017, Members considered a report to require all restricted private hire vehicles to display licence plates and door stickers and the conditions were amended to state:

“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 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.”

- 2.2 The main concern was that restricted vehicles were hard to identify as licensed vehicles without the licence plate and stickers affixed to the vehicle. See attached copy of the report from 8th September 2017 at Appendix A.

3.0 The Request

- 3.1 On 20th June 2018 Mr Matthews submitted a request for an exemption from displaying the door stickers and licence plates on the exterior of his restricted private hire vehicles. The reasons for the request are that Mr Matthews' vehicles are not used for school runs, they are only used for pre-booked airport travel. Mr Matthews believes that the licence plates and door decals would not suit the work carried out by the vehicles and therefore requests to display the windscreen ID licence.

4.0 'Executive' Hire

- 4.1 An exemption from the requirement to display a plate, granted by the local authority under the Local Government (Miscellaneous Provisions) Act 1976, section 75(3). This states:
- (3) Where a licence under section 48 of this Act is in force for a vehicle, the council which issued the licence may, by a notice in writing given to the proprietor of the vehicle, provide that paragraph (a) of subsection (6) of that section shall not apply to the vehicle on any occasion specified in the notice or shall not so apply while the notice is carried in the vehicle; And on any occasion on which by virtue of this subsection that paragraph does not apply to a vehicle section 54(2)(a) of this Act shall not apply to the driver of the vehicle”.

5.0 Consideration

5.1 The General Licensing Committee is requested to determine whether to:

- i) approve the request by Mr Matthews for an exemption from displaying the door stickers and licence plates on his restricted private hire vehicles RV 178 and RV 308; or
- ii) refuse the request by Mr Matthews for an exemption from displaying the door stickers and licence plates on his restricted private hire vehicles RV 178 and RV 308, giving full reasons for the decision.

The General Licensing Committee's instructions are requested.

Background Papers: Licence Application
Contact Officer: Kath Thomas
Extension: 5600
Legal Contact: Lyndsay Thomas

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
8th SEPTEMBER 2017

PROPOSAL TO AMEND RESTRICTED PRIVATE HIRE VEHICLE
CONDITION 23

1.0 Purpose of Report

- 1.1 To ask Members to consider amending the existing condition which stipulates where the licence must be displayed on the vehicle.

2.0 Current condition

- 2.1 Currently, restricted private hire vehicle condition 23 states:

“The restricted licence issued by the Council must be displayed in the front windscreen of the vehicle on the nearside. It must be clearly visible at all times. The vehicle licence must be returned to the Council on expiry.”

- 2.2 The current window licence is credit card size and shows the vehicle licence number, expiry date of the licence, registration mark of the vehicle licensed and maximum number of persons the vehicle is permitted to carry. It is small and not easily visible.

3.0 Background

- 3.1 Recently, concern regarding the ability to easily identify these vehicles has been raised by officers responsible for school transport and other agencies.
- 3.2 Restricted Private Hire Vehicles are restricted to providing services for school transport, airport travel and executive travel only and may be any colour. This is in contrast to hackney carriage and private hire vehicles used for general hire which are subject to a strict colour policy to assist the public in easily identifying a licensed vehicle.
- 3.3 Concern has been raised that the restricted private hire vehicles are difficult to identify as licensed vehicles as unlike hackney carriage and private hire vehicles, they are not required to display door signs and a licence plate on the rear of the vehicle.
- 3.4 In view of the signage required for restricted private hire vehicles, in practice these vehicles cannot be easily distinguished from private vehicles that are not licensed. This is now causing concern and reports have been received that unlicensed vehicles, arranged privately by

parents and not provided by this authority, are being used to transport children to and from school.

4.0 **Proposals**

- 4.1 To address these concerns it is now proposed that restricted private hire vehicles are required to display door stickers and a plate on the rear of the vehicle in line with the current requirements for hackney carriage and private hire vehicles used for general hire and existing condition 23 of the restricted private hire vehicle conditions is 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.”

5.0 **Recommendations**

- 5.1 It is recommended that Members amend restricted private hire vehicle condition 23 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.”

The Licensing Committee’s instructions are requested.

Background Papers: None
Contact Officer: Yvonne Lewis
Extension: 5600
Legal Contact: Aled Gruffydd



Cyngor **Abertawe**
Swansea Council

**Report of the Licensing and
Food & Safety Manager
General Licensing Committee
13th July 2018**

Local Government (Miscellaneous Provisions) Act 1976 – Restricted Private Hire Vehicle – Request for Exemption from Displaying the Door Stickers and the Licence Plate – Restricted Private Hire Vehicle RV 181, 208 and 245 – Mr Paul Thomas Finch

1.0 Background

- 1.1 Mr Finch is the restricted private operator of Three Cliffs Cars and proprietor of 3 restricted private hire vehicles:
- a. RV 181 a white Ford Transit, vehicle registration mark CV60 XBD, licence expiring 31st December 2018;
 - b. RV 208 a silver Vauxhall Vivaro, vehicle registration mark DK63 CRF, licence expiring 31st July 2018;
 - c. RV 245 a silver Ford Tourneo, vehicle registration mark CV62 VBK, licence expiring 31st July 2018.

2.0 Current Condition

- 2.1 On 8th September 2017, Members considered a report to require all restricted private hire vehicles to display licence plates and door stickers and the conditions were amended to state:

“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 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.”

- 2.2 The main concern was that restricted vehicles were hard to identify as licensed vehicles without the licence plate and stickers affixed to the vehicle. See attached copy of the report from 8th September 2017 at Appendix A.

3.0 The Request

- 3.1 On 12th June 2018 Mr Finch submitted a request for an exemption from displaying the door stickers and licence plates on the exterior of his restricted private hire vehicles. The reasons for the request are that whilst he has been operating for 10 years, he no longer carries out taxi work and does not have any school contracts, he only takes passengers to and from various Air/Sea Ports throughout England and Wales providing an executive service and does not wish to be identified as a Taxi as it would detract from his level of service to look like a private hire vehicle. Mr Finch therefore requests to display the windscreen ID licence.

4.0 'Executive' Hire

- 4.1 An exemption from the requirement to display a plate, granted by the local authority under the Local Government (Miscellaneous Provisions) Act 1976, section 75(3). This states:
- (3) Where a licence under section 48 of this Act is in force for a vehicle, the council which issued the licence may, by a notice in writing given to the proprietor of the vehicle, provide that paragraph (a) of subsection (6) of that section shall not apply to the vehicle on any occasion specified in the notice or shall not so apply while the notice is carried in the vehicle; And on any occasion on which by virtue of this subsection that paragraph does not apply to a vehicle section 54(2)(a) of this Act shall not apply to the driver of the vehicle”.

**General Licensing
Committee**

**Request for Exemption from
Displaying the Door Stickers
and the Licence Plate –
Restricted Private Hire Vehicle
RV 181, 208 and 245 –
Mr Paul Thomas Finch**

13th July 2018

5.0 Consideration

5.1 The General Licensing Committee is requested to determine whether to:

- i) approve the request by Mr Finch for an exemption from displaying the door stickers and licence plates on his restricted private hire vehicles RV 181, RV 208 and RV 245; or
- ii) refuse the request by Mr Finch for an exemption from displaying the door stickers and licence plates on his restricted private hire vehicles RV 181, RV 208 and RV 245, giving full reasons for the decision.

The General Licensing Committee's instructions are requested.

Background Papers: Licence Application
Contact Officer: Kath Thomas
Extension: 5600
Legal Contact: Lyndsay Thomas

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
8th SEPTEMBER 2017

PROPOSAL TO AMEND RESTRICTED PRIVATE HIRE VEHICLE
CONDITION 23

1.0 Purpose of Report

- 1.1 To ask Members to consider amending the existing condition which stipulates where the licence must be displayed on the vehicle.

2.0 Current condition

- 2.1 Currently, restricted private hire vehicle condition 23 states:

“The restricted licence issued by the Council must be displayed in the front windscreen of the vehicle on the nearside. It must be clearly visible at all times. The vehicle licence must be returned to the Council on expiry.”

- 2.2 The current window licence is credit card size and shows the vehicle licence number, expiry date of the licence, registration mark of the vehicle licensed and maximum number of persons the vehicle is permitted to carry. It is small and not easily visible.

3.0 Background

- 3.1 Recently, concern regarding the ability to easily identify these vehicles has been raised by officers responsible for school transport and other agencies.
- 3.2 Restricted Private Hire Vehicles are restricted to providing services for school transport, airport travel and executive travel only and may be any colour. This is in contrast to hackney carriage and private hire vehicles used for general hire which are subject to a strict colour policy to assist the public in easily identifying a licensed vehicle.
- 3.3 Concern has been raised that the restricted private hire vehicles are difficult to identify as licensed vehicles as unlike hackney carriage and private hire vehicles, they are not required to display door signs and a licence plate on the rear of the vehicle.
- 3.4 In view of the signage required for restricted private hire vehicles, in practice these vehicles cannot be easily distinguished from private vehicles that are not licensed. This is now causing concern and reports have been received that unlicensed vehicles, arranged privately by

parents and not provided by this authority, are being used to transport children to and from school.

4.0 **Proposals**

- 4.1 To address these concerns it is now proposed that restricted private hire vehicles are required to display door stickers and a plate on the rear of the vehicle in line with the current requirements for hackney carriage and private hire vehicles used for general hire and existing condition 23 of the restricted private hire vehicle conditions is 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.”

5.0 **Recommendations**

- 5.1 It is recommended that Members amend restricted private hire vehicle condition 23 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.”

The Licensing Committee’s instructions are requested.

Background Papers: None
Contact Officer: Yvonne Lewis
Extension: 5600
Legal Contact: Aled Gruffydd



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

General Licensing Committee – 13 July 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
	8, 9, 10, 11 12	12,13 & 18 12 & 13
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	

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 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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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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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 12

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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