



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 November 2018

Time: 10.00 am

Chair: Councillor Penny Matthews

Membership:

Councillors: 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 and L V Walton

Agenda

Page No.

- | | | |
|----------|---|----------------|
| 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 - 3 |
| 4 | Rear Wheelchair Accessible Hackney Carriage Vehicles. | 4 - 17 |
| 5 | Procedure for Immediate Actions - Suspension or Revocation of a Hackney Carriage/Private Hire Driver's Licence. | 18 - 19 |
| 6 | Exclusion of the Public. | 20 - 23 |
| 7 | Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for the Grant of a Hackney Carriage and Private Hire Driver's Licence - DJB. | 24 - 29 |
| 8 | Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for the Grant of a Restricted Hackney Carriage and Private Hire Driver's Licence - LB. | 30 - 34 |
| 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 - KSR. | 35 - 48 |

Next Meeting: Friday, 14 December 2018 at 10.00 am

Huw Evans

Huw Evans
Head of Democratic Services
Friday, 2 November 2018

Contact: Democratic Services - Tel: (01792) 636923

Agenda Item 3



City and County of Swansea

Minutes of the **General Licensing Committee**

Council Chamber, Guildhall, Swansea

Friday, 12 October 2018 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)

C Anderson
P Downing
H M Morris
L V Walton

Councillor(s)

J P Curtice
S J Gallagher
B J Rowlands

Councillor(s)

N J Davies
P Lloyd
L G Thomas

Officer(s)

Lynda Anthony
Alec Dubens
Richard Jenkins
Lyndsay Thomas
Samantha Woon

Licensing, Food and Safety Manager
Licensing Officer
Licensing Officer
Principal Lawyer
Democratic Services Officer

Apologies for Absence

Councillor(s): C L Philpott

33 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.

34 Minutes:

Resolved that the Minutes of the General Licensing Committee held on 10 August, 2018 be agreed as a correct record.

35 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)

36 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Equality Act 2010 - Passengers in Wheelchair - Request for an Exemption Certificate - SPL.

The Licensing, Food & Safety Manager detailed the background in respect of SPL's application for an exemption from duties under the Equality Act 2010.

Members asked questions of Officers who responded accordingly.

SPL explained the circumstances and answered Members questions.

Resolved that SPL's request for an indefinite exemption from carrying wheelchair users in Hackney Carriage and/or Private Hire Vehicles be **approved**.

37 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence 1999 - SCM.

The Licensing, Food & Safety Manager detailed the background in respect of SCM's application to renew his Hackney Carriage and Private Hire Driver's Licence.

Members asked questions of Officers who responded accordingly.

SCM, accompanied by Mr W, explained the circumstances, read out character references and answered Members questions.

Resolved that SCM's receive a strong warning letter regarding future conduct.

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

The Licensing, Food & Safety Manager detailed the background in respect of JPG's application for the grant of a Hackney Carriage and Private Hire Driver's licence.

JPG explained the circumstances and answered Members questions.

The Lawyer advising the Committee read out character references supplied by JPG in support of his application.

Resolved that JPG's application be **Approved**.

39 Immediate Action Update.

The immediate action update was noted.

[Members' sought clarification regarding the process for the return of taxi badges in the event of a licence being revoked. The Licensing, Food and Safety Manager stated that she would provide an update to the next Committee meeting].

The meeting ended at 11.20 am

Chair

Agenda Item 4



Cyngor **Abertawe**
Swansea Council

Report of the Licensing and Food & Safety Manager General Licensing Committee 9th November 2018

Rear Wheelchair Accessible Hackney Carriage Vehicle

1.0 Introduction

- 1.1 A report requesting approval for a rear loading, wheelchair accessible vehicle to be licensed as a hackney carriage was considered by the General Licensing Committee on 13th July 2018.
- 1.2 The licence was granted and Members requested that a report be brought to the next meeting of the Committee, seeking approval for officers to determine any further applications of this nature.
- 1.3 The report was considered on the 10th August 2018. Members resolved that the decision be deferred pending further information regarding safety of rear wheelchair accessible vehicles, from Mid and West Wales Fire Authority and any other professionals deemed appropriate. A copy of this report is attached at Appendix A.

2.0 Fire Authority

- 2.1 Following the decision of the Licensing Committee officers contacted the Fire Authority. The information received confirms that motor vehicles do not fall under their remit in terms of the Fire Safety Risk Assessment requirements. In view of this they are unable to provide any information in response to the request from the Licensing Committee regarding the safety of the vehicle.
- 2.2 The Fire Authority did however contact Transport for All (TFA), a large London Based charitable organisation for older and disabled persons in respect of safety concerns regarding the use of rear wheelchair accessible vehicles and they have confirmed that they have no reported issues with such vehicles.
- 2.3 Information was also requested from the Swansea Disability Forum but no response was received

3.0 Relevant considerations

- 3.1 Since the decision to licence a rear wheelchair accessible vehicle on the 13th July 2018, the Licensing Section have had a number of enquiries from the trade and car sales who wish to licence similar vehicles.
- 3.2 In addition, the Licensing Section has received a letter from a member of the taxi trade expressing concern that licensing these vehicles may have a negative impact on the trade as drivers may find it difficult to provide access for a wheelchair user on the rank due to the space required and they would potentially need to leave the rank and in doing so could obstruct the public highway. There is also concern that there is already insufficient rank space available in the city currently. A copy of the letter is attached at Appendix B. It must be noted that availability of rank space is a separate matter and should not be a consideration in relation to the suitability of a type of vehicle for licensing as a hackney carriage.
- 3.3 Letters and comments of support in relation to the use of rear wheelchair accessible vehicles have been received from a wheelchair user, a family member of a wheelchair user and a member of the taxi trade. Copies of the comments received are attached at Appendix C. Members should note from the comments that the recently approved rear wheelchair accessible taxi has been operating locally for approximately 3 months and the feedback detailed in Appendix C states that there has not been a negative response and disabled passengers specifically request that vehicle when booking a journey.
- 3.4 No specific guidance is available from the Department for Transport (DfT) regarding the use of rear loading wheelchair accessible vehicles as licensed vehicles however DfT Guidance issued in February 2010 states:
- “best practice is for local Licensing Authorities to adopt the principle of specifying as many different types of vehicle as possible and might usefully set down a range of general criteria leaving it open to the trade to put forward vehicles of their own choice so there can be flexibility for new vehicle types to be readily taken into account”. It goes on to say “Licensing Authorities should give very careful consideration to a Policy which automatically rules out particular types of vehicle...”*
- 3.5 Officers have also researched the use of rear wheelchair accessible vehicles as licensed hackney carriages in other local authorities in Wales. Currently rear wheelchair accessible vehicles are licensed in Cardiff, Bridgend, Vale of Glamorgan, Rhondda Cynon Taff, Gwynedd, Powys, Carmarthenshire and Neath & Port Talbot with no issues being reported.

- 3.6 Additional research into their use in English authorities confirms that they are widely used but there does not appear to be a consensus regarding their suitability. One authority, Slough reports very similar issues to those found in Swansea. Promoters of this type of vehicle focus on the advantages of the vehicles and its ease of use for both driver and passenger, in terms of entering and exiting the vehicle and the ease of travelling, as the wheelchair can readily face forward or backwards in the vehicle. They also point out that if this type of vehicle was not safe for use they would not be permitted on the road. Reference is also made to the lower cost of this type of vehicle and the potential for improvements to the standard of the taxi fleet as the vehicles may be more affordable to the taxi trade.
- 3.7 A recent review of taxi and private hire licensing policy considered the continued use of rear wheelchair access vehicles in Cheltenham. Views were sought on the suitability of the vehicles and the main argument against their continued use related to safe access and egress as passengers would be placed in the roadway. Consideration was given to the fact that if the rear door was damaged a wheelchair user could not get out of the vehicle while still in the wheelchair. They also considered the advantages of more headroom in the vehicles, and passengers could easily face the front or rear. They also had not received any substantiated complaints.

4.0 Conclusion

- 4.1 It is clear that there are differing opinions in relation to the suitability of rear wheelchair access vehicles for use as a licensed hackney carriage and that there are advantages and disadvantages to both side and rear access for wheelchairs.
- 4.2 Rear wheelchair accessible vehicles are licensed in other local authorities with no reported issues. Rear access vehicles are also licensed in Swansea as private hire and have previously been licensed as hackney carriage vehicles, also with no reported issues. The rear access vehicle recently licensed has been operating locally for approximately 3 months and has attracted a positive response from disabled customers.
- 4.3 Availability of rank space should not be a consideration when determining the suitability of a vehicle for licensing as a hackney carriage vehicle although this matter is being addressed in conjunction with other council departments, in relation to changes to and development of the city.

5.0 Proposed Procedure

- 5.1 In view of the information contained in the report it is proposed that where an application is received for a rear wheelchair accessible vehicle and licensing officers are satisfied that the vehicle meets all other required standards, that the application is approved by officers.
- 5.2 Any vehicles that do not comply with the required standards will be reported to the General Licensing Committee for determination.

5.0 Recommendation

- 5.1 It is recommended that Members authorise officers of the Licensing Section to grant vehicle licences in respect of hackney carriage vehicles that are rear wheelchair accessible, subject to the vehicle passing the Council's inspection and meeting all other application criteria and that these vehicles are re-licensed on merit. Any vehicles that do not comply with the required standards will be reported to the General Licensing Committee for determination.

The Licensing Committee's instructions are requested.

Background Papers:	Slough and Cheltenham taxi and private hire vehicle reports
Contact Officer:	Richard Jenkins
Extension:	5600
Legal Contact:	Lyndsay Thomas



**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.

**General Licensing
Committee**

**P.W.& E.K. HARRIS LTD
Application for hackney carriage
Vehicle – NK58 GXL**

13th July 2018

- 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.

**General Licensing
Committee**

**P.W.& E.K. HARRIS LTD
Application for hackney carriage
Vehicle – NK58 GXL**

13th July 2018

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 Divisional Officer
Licensing, Food & Safety
General Licensing Committee
10th August 2018**

Rear Wheelchair Accessible hackney carriage vehicles.

1.0 Introduction

- 1.1 A report requesting approval for a rear loading, wheelchair accessible vehicle to be licensed as a hackney carriage was considered by the General Licensing Committee on 13th July 2018. A copy of the report is attached at Appendix A.
- 1.2 The licence was granted and Members requested a report be brought to the next meeting of the Committee seeking approval for officers to determine any further applications of this nature.

2.0 Proposed Procedure

- 2.1 In view of the request it is proposed that where an application is received for a rear loading, wheelchair accessible vehicle and licensing officers are satisfied that the vehicle meets the required standards, the application is approved by officers on behalf of the General Licensing Committee.
- 2.2 Any vehicles that do not comply with the required standards will be reported to the General Licensing Committee for determination.

3.0 Recommendation

- 3.1 It is recommended that Members authorise officers of the Licensing Section to grant vehicle licences in respect of hackney carriage vehicles that are rear wheelchair accessible, subject to the vehicle passing the Council's inspection and meeting all other application criteria and that these vehicles are re-licensed on merit. Any vehicles that do not comply with the required standards will be reported to the General Licensing Committee for determination.

The Licensing Committee's instructions are requested.

Background Papers: None
Contact Officer: Richard Jenkins
Extension: 5600
Legal Contact: Aled Gruffydd

Jenkins, Richard

From: ~~Richard Jenkins~~ of Taxi Licensing
Sent: 04 September 2018 15:22
To: ~~Richard Jenkins~~
Subject: FW: VW Caddy ~~Richard Jenkins~~

With Regards
~~Richard Jenkins~~
Licensing Assistant

*Clerc TrwyddeduTaksi / Taxi Licensing Clerk.
Gwasanaeth Tai a Diogelu'r Cyhoedd/Housing & Public Protection
Dinas a Sir Abertawe/City and County of Swansea.
(01792 635600*



**Cyngor Abertawe
Swansea Council**

A wnewch chi ystyried yr amgylchedd cyn argraffu'r neges hon. Please consider the environment before printing this email.

From: ~~Richard Jenkins~~
Sent: 03 September 2018 23:09
To: Taxi Licensing <TaxiLicensing@swansea.gov.uk>
Subject: VW Caddy

Hi

Having read the minutes of the General Licensing Committee meeting held 30/08/18, I understand approval of new Hackney Carriage licenses for rear wheelchair accessible VW Caddy vehicles will depend on further health & safety consultation.

I am sure if these vehicles are approved this will have a negative impact on the Swansea taxi trade in view of the lack of rank spaces that exist at the moment. For example, the Portland Street rank can barely hold 4-5 vehicles. I rear loading wheelchair accessible vehicle would find it impossible the provide access without leaving the rank in some form, possibly obstructing the public highway.

Will the committee consider this problem and when is it likely the committee will reconvene on the issue?

Kind regards,

~~Richard Jenkins~~

Jenkins, Richard

From: [Redacted]
Sent: 02 October 2018 13:11
To: [Redacted]

Wheelchair accessible Public Hire Vehicles

Inbox x



[Redacted]

Mar 5, 2018, 5:42 PM

I would like to express my growing concern with the way the Hackney licensed taxi business is heading.

Personally I have no problem with picking up people who have no alternative than to travel in a wheelchair, and taking them on a journey that allows them to leave their designated place on time, and arrive safely at their chosen destination. I do believe that we the Hackney trade now supply a service that people are familiar with, and most show an appreciation for the service that we supply. The alternative can be a harrowing and frustrating experience, [i.e. public transport] both for the disabled person as well as those that travel with them, the cost of the taxi is also reasonable, which is all very positive.

However my concerns are that over the 14 years of driving a disabled accessible taxi, I have seen an increase in the amount of people that use the service and sadly an increase in the weight of people that use it. I know that this a contentious issue and can lead to offence, and I am trying to be sensitive in how this is perceived

That being said leads me on to the health concerns of anyone who drives such a taxi. If I have to pick up a 6 stone women in a lightweight chair to put out the ramps and push her up a 45 degree slope and strap her in doesn't present me with a problem with the taxi that I am currently driving. If however I have to pick up a 20 stone man with a wide heavy chair, up the same gradient, then it can be problematic, in terms of safety for the wheelchair user, and health and safety of the driver. Unfortunately I do not have the option of refusal for fear of offending and bringing the company I work for the taxi trade and the council into disrepute.

Its put me in a situation where I am trying to move from a wheelchair vehicle to a saloon car, which are becoming more difficult to obtain. One way to maybe resolve what is becoming a precarious occupation in terms of health safety and liability is to re-look at rear access wheelchair vehicles which was introduced 14 years ago and then came to an abrupt end because of bad feeling within the taxi trade in Swansea. The main reason being was the cost at the time, this has now changed because of the relaxed situation we now have with being able to bring on second hand vehicles. Other councils allow such vehicles which normally the wheelchairs are rolled in at road height, thus avoiding pushing a heavyweight uphill and would reduce the possibility of injury to either driver or customer, and all wheelchairs would only be able to face forward, thus avoiding the situation that we sometimes encounter, where the only option is to load big wheelchairs across the cab which apparently is not correct but unavoidable.

I am currently working with Data Cabs, we have use of the only recently approved rear access vehicle working within our company, which has been with us since the July of this year. It has given us an opportunity to closely monitor for ease of use for both driver and customer reaction and also levels of satisfaction. In all aspects of using this taxi there has not had a negative response. We have customers requesting that this vehicle is sent when they book for a wheelchair journey they feel safer and more secure, some are quite nervous of going up the steep slope that mainly occurs on most of the side entrance taxi's. Unfortunately we only have the one which could be withdrawn by the owner at any time, and we would not be able to supply the service that the disabled person would prefer. The low entry rear access taxi is better adapted for taxi work than the larger ones that we currently have

The larger taxi's have a roll to play but in our opinion the lower vehicle is better suited for the work our company is covering. If the statistics were looked at on wheelchair journeys in and around Swansea you will find that Data Cabs covers at least 80% of all disabled taxi and school transport therefore we manage what vehicles are suitable for each journey.

There has been some concern shown with regard to rear access vehicles needing space behind for loading wheelchairs on taxi ranks. I have been driving taxi's for nearly 15 years, it is only once in St. Mary's rank that I have picked up a wheelchair. I have spoken to many drivers and most are of the same opinion, wheelchair users very rarely use ranks they pre-book taxis and arrange convenient pick up points that are more suitable for them.

I would like also to take this opportunity to express my opinion on emission outputs most of the larger taxi's ie. Vauxhall/Renault/Nissan they produce CO2@220 G/KM NOX.@332MG/KM MPG 34.4 combined Peugeot Partner 1.6 CO2@139 G?KM NOX.@163MG/KM MPG53.3 combined.

I believe the the public should be protected and that these figures should also be a part of the decision making process, kindest regards ~~Spencer~~

Your comment

I would like to make

a comment

What comment would you like to make? What did we do well?

Taxi licencing As a disabled wheelchair bound person finding sa taxi that gives a comfortable ride is hard work today I had the pleasure of travelling in one of the few dedicated wheelchair access cabs namely a black VW caddy ~~0120 2014 5000~~ I must say that this vehicle being set uwheelchair acces vehicle gave me a fabulously smooth ride, why don't you have more of these in Swansea??you can reply to me at this email address

~~0120 2014 5000~~

Does this comment or compliment relate to Social Services?

No

Your details

Which is your preferred method of contact?

Email

Your details

Your name

~~0120 2014 5000~~

Label

House name

House number

#

Street name

~~0120 2014 5000~~

Area

glasgow

City

Dunfermline

Postcode

EH15 1JG

Swansea
Data
Cabs
01792 55742

ENVIRONMENT	
REF No	LOGGED BY
	11/10 OCT 2018
CAR	
FOR A/C	
BY	
IN CHARGE	
TEL	

4 October 2018

~~XXXXXXXXXX~~
Taxi Licensing

Dear Sir,

I am writing in respect of a recent taxi journey that ~~XXXXXXXXXX~~ Swansea supplied.

My father ~~XXXXXXXXXX~~ is wheelchair and house bound, we on average use this company journeying both from and to home between 2 and 3 times a week either for hospital appointments or to go into the city centre some times for food, or just to give him a break from the home.

John is 18 stone plus his wheelchair which weighs approx 12 stone which is a combined weight of 30 stone. Whilst in the 10 years we have been using Data cabs for the service it has always been a side loading taxi which has never been a problem, although occasionally the driver will have difficulty either loading or offloading ~~XXXXXXXXXX~~.

The reason for my letter is we recently had a taxi journey that is designed to load from the rear. We have no kerb loading ~~XXXXXXXXXX~~ at floor height was far easier, he went straight in facing forward, he would prefer to see where he was going. Interaction between ~~XXXXXXXXXX~~ and the driver was far greater, he felt much safer and more confident going into and exiting the taxi. Unfortunately it is the only low level rear loading taxi in Swansea as far as I am aware. I am not able to book this particular vehicle when required, due to the logistics of the company. If more of these were released into Swansea it would make disabled taxi users feel safer and more comfortable and confident, the journey that we had was overall a pleasant experience.

Sincerely,

Signature





Cyngor **Abertawe**
Swansea Council

**Report of the Licensing and
Food & Safety Manager
General Licensing Committee
9th November 2018**

For Information

Procedure for Immediate Actions – Suspension or Revocation of a Hackney Carriage / Private Hire driver’s licence

1.0 Introduction

- 1.1 Following a report to Members detailing recent actions taken by officers to revoke a hackney carriage and private hire driver’s licence with immediate effect, clarification was sought regarding the action taken by officers following this decision to ensure a driver is prevented from driving a licensed vehicle. They also sought clarification regarding the powers available to officers to request that the licence and badges are returned to the Authority.
- 1.2 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, provides that following suspension or revocation of the licence the driver shall, on demand, return to the district Council, the driver’s badge issued. It is also an offence, if any person, without reasonable excuse contravenes the provisions of the Section and they shall be guilty of an offence, liable on summary conviction to a fine not exceeding level one on the standard scale.
- 1.3 Following the suspension or revocation of a hackney carriage and private hire driver’s licence, the drivers are notified of the action they are required to take following receipt of the notice and the relevant sections of the legislation are included in the notice. The letter specifies the requirement to return the drivers’ badges to the authority and also specifies the penalties if the driver fails to comply.
- 1.4 Officers then notify relevant Private Hire Operators and officers of South Wales Police of the action taken to ensure as far as possible that the driver subject to the suspension or revocation notice is prevented from driving. Enforcement action can be carried out if they do not comply with this requirement.

- 1.5 Every effort is made by officers to ensure badges are returned. This requirement is complied with in the majority of cases however where drivers do not return their badges officers determine the most appropriate enforcement action, in consultation with the Council’s legal officers.

The Licensing Committee’s instructions are requested.

Background Papers: None
Contact Officer: Richard Jenkins
Extension: 5600
Legal Contact: Lyndsay Thomas

Agenda Item 6



Report of the Chief Legal Officer

General Licensing Committee – 9 November 2018

Exclusion of the Public

Purpose:	To consider whether the Public should be excluded from the following items of business.	
Policy Framework:	None.	
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's.	Relevant Paragraphs in Schedule 12A
	7, 8, & 9	12, 13 & 18
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Tracey Meredith – Chief Legal Officer (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 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

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.

Document is Restricted

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

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