



## 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, 6 December 2019

**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

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### Agenda

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<b>1 Apologies for Absence.</b>	
<b>2 Disclosures of Personal and Prejudicial Interest.</b> <a href="http://www.swansea.gov.uk/disclosuresofinterests">www.swansea.gov.uk/disclosuresofinterests</a>	
<b>3 Minutes:</b> To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 3
<b>4 Exclusion of the Public.</b>	4 - 7
<b>5 Town Police Clauses Act 1847 &amp; Local Government (Miscellaneous Provisions) Act 1976 - Application for the Grant of a Restricted Hackney Carriage and Private Hire Driver's Licence - GRJ.</b>	8 - 14
<b>6 Town Police Clauses Act 1847 &amp; Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence/Hackney Carriage Vehicle Licence - BJE.</b>	15 - 19

**Next Meeting:** Friday, 10 January 2020 at 10.00 am

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

**Huw Evans**  
Head of Democratic Services  
Thursday, 28 November 2019

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**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, 8 November 2019 at 10.00 am

**Present:** Councillor P M Matthews (Chair) Presided

**Councillor(s)**

N J Davies  
P Lloyd  
B J Rowlands

**Councillor(s)**

P Downing  
H M Morris  
L G Thomas

**Councillor(s)**

S J Gallagher  
C L Philpott  
L V Walton

**Officer(s)**

Lynda Anthony  
Yvonne Lewis  
Samantha Woon  
Craig Davies

Licensing, Food and Safety Manager  
Team Leader, Licensing  
Democratic Services Officer  
Lawyer

**Apologies for Absence**

Councillor(s): C Anderson and J P Curtice

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**1 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.

**2 Minutes:**

**Resolved** that the Minutes of the General Licensing Committee held on 13 September, 2019 be agreed as a correct record.

**3 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)**

**4 Town Police Clauses Act 1847 & Local Government (Miscellaneous Provisions) Act 1976 - Equality Act 2010 - Passengers in Wheelchairs - Request for an Exemption Certificate - IMA.**

The Licensing, Food & Safety Manager, detailed the background in respect of IMA.

IMA explained the circumstances relating to the application and answered Members' questions.

**Resolved** that IMA's application for an Exemption Certificate be **approved indefinitely**.

**5 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 - SS.**

The Lawyer advising the Committee stated that as a result of administrative issues, pages of the report and appendix relating to SS were incomplete within Members' agenda papers. In order that SS be given a fair hearing, Officers had spoken to SS who had requested Members' consider deferring the issue to a later date.

**Resolved** that the matter be deferred to a later meeting.

**6 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 - MSB.**

The Licensing, Food & Safety Manager, detailed the background in respect of MSB.

MSB detailed the circumstances relating to the convictions and answered Members' questions.

The Licensing, Food & Safety Manager sought clarification on two issues contained within the report.

The Lawyer advising the Committee provided advice to the Committee following clarification by the Licensing, Food & Safety Manager.

**Resolved** that MSB's application for the grant of a Hackney Carriage and Private Hire Driver's Licence be **Refused**.

**Reason for Decision**

It was felt that MSB had not offered compelling mitigation to deviate from paragraph 4.42 on the Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades, which states 'where an applicant has 7 or

more points on their DVLA Licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed'.

Members felt that MSB had not provided evidence of exceptional circumstances or justifiable reasons to depart from policy; as per 3.29 of the guidance.

Members did not consider MSB to be a safe and suitable person and he had not passed the fit an proper test.

**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 - DRF.**

The Licensing, Food & Safety Manager, detailed the background in respect of DRF.

DRF explained the circumstances surrounding the convictions and answered Members' questions.

**Resolved** that DRF's application for the grant of a Hackney Carriage and Private Hire Driver's Licence be **Refused**.

**Reason for Decision**

Members were of the opinion that DRF had failed to provide compelling mitigation regarding the convictions.

Members referred to section 4.31 of the Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private hire Trades, which states that 'where an applicant has a conviction of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Members not of the view that DRF is a safe and suitable person, in addition felt that he was not deemed fit and proper.

Consideration was given regarding 3.29 of the guidance and members felt that DRF did not evidence any exceptional circumstances, or justifiable reasons to depart from the adopted guidelines.

The meeting ended at 11.40 am

**Chair**

# Agenda Item 4



## Report of the Chief Legal Officer

General Licensing Committee – 6 December 2019

### Exclusion of the Public

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.	
<b>Policy Framework:</b>	None.	
<b>Consultation:</b>	Legal.	
<b>Recommendation(s):</b>	It is recommended that:	
<b>1)</b>	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.	
	<b>Item No's.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	5 & 6	12 & 13
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	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
<b>12</b>	<b>Information relating to a particular individual.</b>
	<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>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<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>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. Their view on the public interest test was that:</p> <p><b>a)</b> Whilst they were mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</p> <p><b>b)</b> Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

No.	Relevant Paragraphs in Schedule 12A
15	<p><b>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.</b></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><b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b></p>
	<p>No public interest test.</p>
17	<p><b>Information which reveals that the authority proposes:</b></p> <p><b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b></p> <p><b>(b) To make an order or direction under any enactment.</b></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><b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b></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 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# Agenda Item 6

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

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