



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, 14 February 2020

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

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Next Meeting: Friday, 13 March 2020 at 10.00 am

Huw Evans

Huw Evans
Head of Democratic Services
Friday, 7 February 2020

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, 10 January 2020 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)

C Anderson
S J Gallagher
C L Philpott
L V Walton

Councillor(s)

J P Curtice
P Lloyd
B J Rowlands

Councillor(s)

P Downing
H M Morris
L G Thomas

Officer(s)

Yvonne Lewis
Kath Thomas
Aled Gruffydd
Samantha Woon

Team Leader, Licensing
Licensing Officer
Lawyer
Democratic Services Officer

Apologies for Absence

Councillor(s): N J Davies

48 **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:

- 1) Councillor C Anderson declared a Personal Interest in Minute Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 – Hackney Carriage and Private Hire Driver’s Licence – JP – Applicant is known to me. Councillor Anderson left the meeting prior to consideration of the item.
- 2) Councillor C Anderson declared a Personal Interest in Minute Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 – Hackney Carriage and Private Hire Driver’s Licence/Hackney Carriage Vehicle Licence – BJE – Applicant is known to me. Councillor Anderson left the meeting prior to consideration of the item.

49 **Minutes.**

Resolved that the Minutes of the General Licensing Committee held on 6 December, 2019 be agreed as a correct record.

50 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)

51 Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence/Hackney Carriage Vehicle Licence - BJE.

The Team Leader, Licensing, detailed the background in respect of BJE.

Members' asked questions of the Officers who responded accordingly.

BJE, accompanied by Mr B, Solicitor, explained the circumstances relating to the incident and answered Members' questions.

Resolved that BJE be issued with a warning regarding future conduct in respect of the hackney carriage and private hire driver's licence held and no action be taken in respect of BJE's vehicle licence.

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

The Team Leader, Licensing, detailed the background in respect of SCE.

Members' asked questions of the Officers who responded accordingly.

SCE, accompanied by a family member, explained the circumstances relating to the incident and answered Members' questions.

Resolved that SCE be granted a restricted hackney carriage and private hire driver's licence and be issued with a warning regarding future conduct.

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

The Team Leader, Licensing, detailed the background in respect of JP.

Members' asked questions of the Officers who responded accordingly.

JP explained the circumstances relating to the incident and answered Members' questions.

Resolved that no further action be taken in respect of JP's Hackney Carriage and Private Hire Driver's Licence.

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

The Team Leader, Licensing, detailed the background in respect of SS.

Members' asked questions of the Officers who responded accordingly.

SS explained the circumstances relating to the incident and answered Members' questions.

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

Reason for Decision

- 1) Taxi drivers are in a position of responsibility and trust and his previous conduct demonstrated that the applicant abused the trust placed in taxi drivers, which consisted of inappropriate conduct on a vulnerable lone female.
- 2) Members took the nature of the previous complaint so seriously that they felt that the maximum period permitted of good behaviour under the guidelines should be applied. The maximum period has not expired at the time that the applicant's hearing was conducted, and the applicant provided no compelling reason as to why the guidelines should be departed from;
- 3) The Applicant did not persuade members that he was remorseful for his previous actions, and the professional assistance sought by the applicant was for how the incident affected him, not as to how his conduct may have affected other people.
- 4) The Applicant did not provide evidence that he would not be a danger to lone female passengers in his taxi.
- 5) Although the Applicant received no criminal conviction, Members were of the opinion that the Applicant's previous behaviour amounted to conduct unbecoming of a licence holder and the Applicant did not pass the fit and proper test required to hold a licence.

The meeting ended at 12.21 pm

Chair

Agenda Item 4



Report of the Chief Legal Officer

General Licensing Committee – 14 February 2020

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
	5-8	12 & 13
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> <p>a) Whilst they were mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</p> <p>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

No.	Relevant Paragraphs in Schedule 12A
15	<p>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. Their view on the public interest test was that whilst they are mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them they were satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
16	<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>
	<p>No public interest test.</p>
17	<p>Information which reveals that the authority proposes:</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) To make an order or direction under any enactment.</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
18	<p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

Agenda Item 5

By virtue of paragraph(s) 12, 13 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

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Agenda Item 6

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

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Agenda Item 7

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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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 8

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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