

CITY AND COUNTY OF SWANSEA

MINUTES OF THE SPECIAL GENERAL LICENSING COMMITTEE

**HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA ON FRIDAY,
23 OCTOBER 2015 AT 10.00 AM**

PRESENT: Councillor P M Matthews (Chair) presided

Councillor(s)	Councillor(s)	Councillor(s)
A C S Colburn	J P Curtice	H M Morris
D W Cole	P Lloyd	C L Philpott
A M Cook	K E Marsh	T H Rees

Apologies: Councillors P Downing & V M Evans.

Officers:

Lynda Anthony – Divisional Licensing Officer
Richard Jenkins – Licensing officer
Lyndsay Thomas – Lawyer
Gareth Borsden – Democratic Services
Allison Lowe – Democratic Services

62 **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.

63 **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.

It was **RESOLVED** that the public be excluded for the following items of business.

(CLOSED SESSION)

64 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND
PRIVATE HIRE DRIVER'S LICENCE 2161 - MNI.**

The Divisional Licensing Officer outlined the background details in respect of MNI.

She indicated that the matter had been deferred at the Committee held on 9 October 2015 in order that MNI could seek representations.

She reported and detailed the four complaints received regarding MNI's conduct as a licensed Hackney Carriage Driver and Private Hire Driver.

The Lawyer advising the Committee outlined the procedure to be followed in considering the matters.

MNI assisted by Mr Davies (RMT) and Mr Ali (interpreter) outlined the background details and circumstances relating to each incident.

The Witnesses Mr F (complaint 2) and Mr B (complaint 3) attended the meeting and spoke regarding the matters raised and answered the questions of both Members and MNI's representative.

Officers and Members' asked questions of MNI and his representatives relating to all four incidents, they responded accordingly.

The Lawyer advising the Committee confirmed the relevant issues for consideration by the Committee.

RESOLVED that:

- 1) MNI's driving licence be suspended for a period of 3 months in order for him to undertake and pass a suitable course (as recommended by the Licensing Department) to address the deficiency in his English language and communication skills; and
- 2) No action be taken with regard to MNI's vehicle licence.

Reasons

1. The members recognised the paramount importance is the protection of the public.
2. They understood they could rely on non conviction evidence to decide suitability and the fitness of any driver.
3. The members felt MNI could retain his licence without putting the public safety at risk and felt the terms of the suspension going forward would not only protect the public but also MNI because:-
 - a. Complaint 1 - was not supported by evidence that the members considered reliable or credible as the complainant was relying on unsubstantiated hearsay.
 - b. Complaint 2 - having heard from both MNI and the complainant it was found as a matter of fact the complainant by his own admission had been drinking and found that his behaviour may have contributed to MNI's concern about the complainant's and MNI's own safety. The members found there was no overcharging and that returning the complainant to a safe place was reasonable in all the circumstances. The members felt there may have been a misunderstanding as to whether MNI had accepted the £20 fare offered by the

complainant as full payment or, as MNI suggested, he was going on the meter and had taken the sum on account. Members felt this was likely to be attributable to MNI's deficiency in English and inability to communicate.

- c. Complaint 3 – having heard both MNI and the complainant the members found that it was not unreasonable in the specific circumstances for MNI to decline to take the 1st passenger as MNI took reasonable steps to ensure the passenger did take an alternative taxi. Members accepted MNI's explanation that he did not refuse to take the 2nd passenger but as he had declined the 1st passenger he felt it was more appropriate for the next taxi in line to have that fare. The members did find that the incidents may have been exacerbated by the fact both the complainant and MNI had limited English ability and no other common language to adequately communicate their respective positions.
- d. Complaint 4 – The members heard that MNI did not agree with the contents of this complaint. The complainants were not in attendance to add any further information. It was noted in the complaint the incident took place at 4.30 am, the complainants had been drinking and made reference to 2 previous disputes over fares prior to MNI picking them up. This was a similar incident to complaint 2 above so the members felt it was more likely than not MNI's lack of English and the fact the complainants had been drinking contributed to the incident escalating. No finding was made with regard to the alleged missing items which issue was being dealt with by SWP.
4. The members recognised interference with a drivers licence required higher justification and found that suspension was proportionate having regard to the previous warnings and the fact 4 complaints had been received some action was necessary.
5. Member's noted and agreed with MD's representation that a suitable course would be beneficial because of MNI's acknowledged deficiencies in English.

The meeting ended at 12.33 pm

CHAIR