



## 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, 10 November 2017

**Time:** 10.00 am

**Chair:** Councillor Penny Matthews

#### Membership:

Councillors: C Anderson, J P Curtice, P Downing, V M Evans, 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

#### Page No.

- 1 **Apologies for Absence.**
- 2 **Disclosures of Personal and Prejudicial Interest.**  
[www.swansea.gov.uk/disclosuresofinterests](http://www.swansea.gov.uk/disclosuresofinterests)
- 3 **Minutes:** 1 - 4  
To approve & sign the Minutes of the previous meeting(s) as a correct record.
- 4 **Exclusion of the Public.** 5 - 8
- 5 **Appeal against decision to not approve as a Driver for Home to School Transport - CBB.** 9 - 12
- 6 **Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence - RVW.** 13 - 18
- 7 **Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Driver's Licence - BS.** 19 - 24
- 8 **Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Dual Driver - MGM - Private Hire Vehicle Proprietor - Hackney Carriage Vehicle Proprietor - Private Hire Operator, MC Ltd.** 25 - 30

**Next Meeting:** Friday, 8 December 2017 at 10.00 am

*Huw Evans*

**Huw Evans**  
**Head of Democratic Services**  
**Friday, 3 November 2017**

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**Contact: Democratic Services - Tel: (01792) 636923**



City and County of Swansea

## Minutes of the **General Licensing Committee**

Council Chamber, Guildhall, Swansea

Friday, 13 October 2017 at 10.00 am

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

**Councillor(s)**

C Anderson  
H M Morris  
L V Walton

**Councillor(s)**

S J Gallagher  
C L Philpott

**Councillor(s)**

P Lloyd  
B J Rowlands

**Officer(s)**

Lynda Anthony  
Kath Thomas  
Lyndsay Thomas  
Samantha Woon

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

**Apologies for Absence**

Councillor(s): J P Curtice, P Downing, V M Evans and L G Thomas

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

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

Councillor P Lloyd – Personal – Minute No. - 52 - Local Government (Miscellaneous Provisions) Act 1976 – Restricted Dual Badge Driver – RC – I know the person accompanying the applicant.

**48 Minutes.**

**Resolved** that the minutes of the General Licensing Committee held on 8 September, 2017, be agreed as a correct record.

**49 Result of Appeals.**

The Divisional Officer, Licensing, Food & Safety, presented the Results of Appeals for information.

The lawyer advising the Committee, in response to Members questions, detailed the procedure adopted by the Magistrates Court and the role of the Council's Criminal Prosecutor in defending the Committee's decision.

The Lawyer advising the Committee stated that the Chair receives a copy of the rationale of the Magistrates Court decision.

**Resolved** that:

1. the report be noted.
2. The Lawyer advising the Committee would bring details of the Magistrates Court decisions to future meetings in order to answer Member questions.

**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.

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

**(Closed Session)**

**51 Town Police Clauses Act 1847 - Local Government (Miscellaneous Provisions) Act 1976 - Application for a Hackney Carriage and Private Hire Driver's Licence - MHIF.**

The Divisional Officer, Licensing, Food & Safety detailed the background in respect of MHIF's application for a Hackney Carriage and Private Hire Driver's Licence.

Members asked questions of the Officer who responded accordingly.

MHIF explained the circumstances of the request and answered Members questions relating to the matter.

**Resolved** that MHIF's application for a Hackney Carriage and Private Hire Driver's Licence be **approved**.

**52 Local Government (Miscellaneous Provisions) Act 1976 - Restricted Dual Badge Driver - RO.**

The Divisional Officer, Licensing, Food & Safety detailed the background in respect of RO's Restricted Dual Badge.

RO, accompanied by Mr J, explained the circumstances of the offence and answered Members questions relating to the matter.

**Resolved** that RO's Restricted Hackney Carriage and Private Hire Driver Licences be **renewed**.

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

The Divisional Officer, Licensing, Food & Safety detailed the background in respect of KD's application for a Hackney Carriage and Private Hire Driver's Licence.

KD explained the circumstances of the request and answered Members questions relating to the matter.

**Resolved** that KD's application for the grant of a Hackney Carriage and Private Hire Driver's Licence be **refused as the members did not consider KD to be a fit and proper person**.

**Reason for Decision**

- Committee considered the offence of 16/10/16 to be serious as KD was carrying passengers at high speed – 105 miles per hour.
- The Committee noted KD denied he was going at that speed and the Police were mistaken but he declined to give the speed he was travelling save it was over 40 mph.
- KD was found guilty at Court and the Committee did not consider the fact that KD was given 4 months rather than 6–12 months a mitigating circumstance.
- Committee noted the information from the Police and the disqualification given for 4 months and found it was likely KD was travelling at high speed in excess of the 40 mph limit.
- The Committee were concerned that KD seemed to have been speeding in the first instance due to his passengers telling KD to speed with another car.
- KD said he was scared and that was why he was speeding. The Committee was of the opinion that if KD's account of the incident was correct he could and should have dealt with the incident in another way. The Committee were concerned that KD showed poor judgment in the way he dealt with the incident.
- KD showed no remorse for the offence for which he was convicted save that he knows it was wrong to speed. KD demonstrated little or no respect for the road regulations or the Police who were called upon to deal with the incident when questioned by Members.
- The Committee noted KD has held a driving licence since 2006 and this is KD's only conviction but the speed and the details of the incident as reported by the police and the sentence imposed demonstrated it was a serious offence committed while KD had passengers in the car.
- The Committee also noted this incident happened within 2 years of a licence being granted to KD.

- In light of KD's answers to Members questions and as it was only just 12 months since the conviction, the Committee were not satisfied he was acting out of character and would not present a risk to the safety of the travelling public if KD found himself in a similar situation.

The meeting ended at 11.28 am

**Chair**



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

### General Licensing Committee – 10 November 2017

#### 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>Reason for Decision:</b>	To comply with legislation.	
<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.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	5, 6, 7 & 8	12, 13 & 18
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	Tracey Meredith – Head of Legal, Democratic Services & Business Intelligence (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> <ul style="list-style-type: none"> <li>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</li> <li>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</li> </ul> <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, 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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# Agenda Item 6

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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of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

Document is Restricted

# 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.

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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, 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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of the Local Government Act 1972  
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