



## 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, 13 September 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>3 Minutes:</b> To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 2
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**Next Meeting:** Friday, 11 October 2019 at 10.00 am



**Huw Evans**

**Head of Democratic Services**

**Friday, 6 September 2019**

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

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# Agenda Item 3



City and County of Swansea

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

Council Chamber - Guildhall, Swansea

Friday, 9 August 2019 at 10.00 am

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

**Councillor(s)**

C Anderson  
L G Thomas

**Councillor(s)**

P Downing

**Councillor(s)**

S J Gallagher

**Officer(s)**

Lyndsay Thomas  
Jeremy Parkhouse

Principal Lawyer  
Democratic Services Officer

**Apologies for Absence**

Councillor(s): J P Curtice, N J Davies, P Lloyd, H M Morris, C L Philpott, B J Rowlands and L V Walton

Officer(s): Lynda Anthony

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**23 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.

**24 Minutes:**

**Resolved** that the Minutes of the General Licensing Committee held on 12 July 2019 be agreed as a correct record.

**25 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)**

**26 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 - DSP.**

The Principal Lawyer, detailed the background in respect of DSP.

DSP explained the circumstances relating to the convictions and answered Members questions.

The Lawyer advising the Committee provided clarification on the issues raised by Members.

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

Reason for Decision

The Committee were not satisfied that DSP was a fit and proper person due to serious and repeated convictions for possession and / or supply and / or production of controlled drugs.

**27 Immediate Action Update/Results of Appeals.**

The Immediate Action Update / Results of Appeals report was presented.

**Resolved** that the contents of the report be noted.

The meeting ended at 11.00 am

**Chair**

# Agenda Item 4



**Report of the Licensing and  
Food & Safety Manager  
General Licensing Committee  
13<sup>TH</sup> September 2019**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976  
REQUEST TO DETERMINE THE SUITABILITY OF A MERCEDES E  
CLASS, 2200CC DIESEL VEHICLE FOR LICENSING AS A RESTRICTED  
PRIVATE HIRE VEHICLE - MR DAVID JONES**

**1. Introduction**

1.1 A request, in principle, has been received from Mr David Jones of Birchgrove Mini Travel Ltd for Members to determine the suitability of a Black, Mercedes E class, 2200cc diesel engine vehicle, for licensing as restricted private hire vehicle to carry three passengers.

1.2 Mr Jones wishes to use this vehicle, if licensed, as a restricted private hire vehicle, for executive hire only, for special occasions, which include weddings, birthday parties and school proms.

**2. Powers Relating to Licensing of Private Hire Vehicles**

2.1 The powers relating to the licensing of private hire vehicles are contained in Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 which states:

**“Licensing of private hire vehicles**

48-(1) Subject to the provisions of this Part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied –

- (a) that the vehicle is -
  - (i) suitable in type, size and design for use as a private hire vehicle;
  - (ii) not of such design and appearance as to lead any person to

**General Licensing Committee      Request to Determine the Suitability of a Vehicle for Licensing as a Restricted Private Hire Vehicle      13<sup>th</sup> September 2019**

- believe that the vehicle is a hackney carriage;
        - (iii) in a suitable mechanical condition;
        - (iv) safe; and
        - (v) comfortable;
      - (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of (Part VI of the Road Traffic Act 1988), and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.
- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this sub-section, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates.”
- 2.2 It is evident from Section 48 above that the Council are not under a duty to issue a licence once an application has been made, they have a discretion. Section 48(1)(a) & (b) also includes specific situations where a Council must not grant a licence.
- 2.3 Members’ attention is drawn to the fact that the legislation refers to receipt of an application. The request currently being considered is a general request relating to the suitability of a type of vehicle and does not refer to a specific application. Section 48 is of relevance however in considering the request as a specific application will follow if Members determine that the vehicle is suitable.
- 3. Type of Vehicle**
- 3.1 It must be noted that there is no such thing as a purpose-designed private hire vehicle; unlike a hackney carriage where, “London-style” cabs are available. Section 48(1) (a) of the Local Government (Miscellaneous Provisions) Act 1976, detailed in paragraph 2.1 above does however lay down certain criteria which must be satisfied before a Council can licence a vehicle as a private hire vehicle.
- 3.2 The first consideration is whether the vehicle is “suitable in type, size and design ....” In accordance with Section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976 also detailed in paragraph 2.1 above, this Authority has in place conditions which are attached to a private hire vehicle licence and specify the standards a vehicle must comply with. These conditions relate to issues such as the number of doors a vehicle must have, minimum sizes for internal dimensions,

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engine capacity, signage etc. (A copy of the conditions is attached at Appendix A).

**4. Mercedes 220 Coupe**

- 4.1 Mr Jones of Birchgrove Mini travel Ltd recently presented a Mercedes E class 220 coupe at the Central Transport Unit. This vehicle was inspected by the Council Inspector and it was noted that it was capable of carrying 3 passengers.
- 4.2 Members are being asked to consider the suitability of the vehicle as it only has one door either side of the vehicle. This does not meet the requirements of the private hire vehicle conditions which state “**All vehicles must be right hand drive and have 2 door each side of the vehicle. All passengers shall have access to a door capable of being opened from inside the vehicle.**”

**5. Conclusions**

- 5.1 The powers relating to the licensing of private hire vehicles contained in Section 48 of the 1976 Act are clear that a Council shall not grant a licence unless they are satisfied that the vehicle is suitable in type, size and design, not of such a design and appearance as to lead any person to believe that the vehicle is a hackney carriage, in a suitable mechanical condition, safe and comfortable.
- 5.2 The Mercedes 220 Coupe does not meet one of the requirements of the existing restricted private hire vehicle conditions as the vehicle only has 1 door each side of the vehicle.
- 5.3 A Mercedes 220 Coupe Vehicle will be available for Members to inspect at the Guildhall on Friday 13<sup>th</sup> of September 2019.

**6 Recommendation**

- 6.1 It is **recommended** that the Committee, after viewing the vehicle and having regard to the information outlined in the report, determine whether the vehicle is suitable for licensing as a Restricted private hire vehicle with Swansea Council.

**The Licensing Committee’s instructions are requested**

**General Licensing Committee**      **Request to Determine the Suitability of a Vehicle for Licensing as a Restricted Private Hire Vehicle**      **13<sup>th</sup> September 2019**

**Background Papers:**      Licence Application  
**Contact Officer:**      Alec Dubens  
**Extension:**      5122  
**Legal Contact:**      Craig Davies





**NOTES FOR PROPRIETORS OF RESTRICTED PRIVATE HIRE VEHICLES**  
**LAWS RELEVANT TO THE PROPRIETORS OF RESTRICTED PRIVATE HIRE VEHICLES**  
**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**  
**PRIVATE HIRE VEHICLE LICENSING**

Vehicles licensed by the Council must be mechanically fit and suited for their purpose. A comprehensive inspection and test prior to licensing will be necessary and a fee will be payable in relation to each vehicle licence. The Proprietor of a restricted Private Hire vehicle must be considered by the Council to be a fit and proper person.

**VEHICLES CONVERTED TO RUN ON (LIQUEFIED PETROLEUM GAS) LPG**

All (Liquefied Petroleum Gas) LPG vehicle conversions must have been carried out by an (Liquefied Petroleum Gas Association) LPGA Approved Installer and the vehicle proprietor issued with an LPG Conversion Certificate which must be produced when applying for a Private Hire Vehicle Licence.

**INSURANCE**

When applying for a Restricted Private Hire Vehicle Licence, a current certificate of insurance covering the use of the vehicle for carrying fare-paying passengers must be produced. A conversion of a vehicle to run on LPG is a modification and must be notified to the insurance company. The terms of insurance cover taken out should also include:-

- (i) Unlimited indemnity for injury and death to passengers and other third parties.
- (ii) Indemnity of at least £1,000,000.00 for damage to third party property - other than that being carried in or on the insured vehicle.
- (iii) Cover of up to at least £50.00 for damage to property belonging to persons being carried in the insured vehicle.

**TRANSFER OF VEHICLE TO OTHER PROPRIETOR**

Restricted Private Hire Vehicle licences may be transferred during the term of the licence. In every case written notice of transfer, specifying the full name and address of the person to whom transfer is being arranged, must be provided by the licence holder to the Licensing Office in writing within 14 days. A Proprietor who fails to notify the Council of such a transfer will commit an offence and may be liable to prosecution. If the council is of the opinion that the person to whom the licence has been transferred is not a suitable person to hold the licence, it may suspend, revoke or refuse to renew the licence provided that there is reasonable cause to do so.

**UPKEEP OF VEHICLE**

The proprietor is responsible for:

- i. ensuring that the licensed vehicle is at all times kept clean and in good repair;
- ii. reporting any damage sustained by the vehicle which materially affects its safety, performance and appearance or the convenience or comfort of passengers.

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Such matters must be reported within 72 hours to the Licensing Office and arrangements then made for the vehicle to be inspected by a Council Vehicle Inspector at the Central Transport Unit BEFORE repair work is commenced. Damaged vehicles should not be worked.

An authorised Officer of the Council or any Police Officer may at any reasonable time test and inspect a licensed Private Hire vehicle and if he is not satisfied as regards to the fitness of the vehicle he may, by notice to the Proprietor, require the vehicle to be made available for further inspection and suspend the licence until the vehicle has been passed as fit.

A Proprietor who commits offences under or fails to comply with the legislation listed within these notes, may cause the Council to exercise powers to suspend, revoke or refuse to renew his/her licence(s) as deemed appropriate.

### **DRIVER'S LICENCES**

Vehicle Proprietors must keep records of the drivers of their vehicle(s) and when they drive them. The licence issued to each individual driver so engaged must be kept by the Proprietor and returned to the Driver when the arrangement ceases.

### **OBSTRUCTION OF AUTHORISED OFFICER**

It is an offence to fail to comply without reasonable excuse with any reasonable requirement of an Authorised Officer of the Council or Police Officer or to fail to provide any assistance or information required by him/her in connection with his/her duties and responsibilities.

### **VEHICLE SIGNS, ADVERTISEMENTS AND IDENTIFICATION**

Proprietors are permitted to advertise their own company business but must not cause or permit signs, notices or other advertisements to be displayed in, on or from a Private Hire Vehicle unless authorised by the Council.

THE PROPRIETOR IS, HOWEVER, RESPONSIBLE FOR AFFIXING AND MAINTAINING THE VEHICLE LICENCE PLATE AND STICKERS ISSUED BY THE COUNCIL AS DIRECTED. THE PLATE AND STICKERS MUST BE KEPT CLEARLY VISIBLE AT ALL TIMES. THE VEHICLE PLATE MUST BE RETURNED TO THE COUNCIL ON EXPIRY OF THE LICENCE WHEN REQUESTED. TO DO SO WITHOUT REASONABLE EXCUSE COMMITS AN OFFENCE.

### **POWERS OF THE COUNCIL**

The Council has powers to suspend, revoke or refuse to renew for any conduct which appears to render Proprietors unfit to hold licences.

### **PERIOD OF LICENCE**

A licence will usually be issued for a twelve month period. In exceptional circumstances a short term licence may be issued but only at the discretion of the Council.

## RESTRICTED PRIVATE HIRE VEHICLE CONDITIONS

1. These conditions were made pursuant to Section 48 of the Local Government (Miscellaneous Provisions) Act 1976. Breach of one or more of these Conditions may lead to suspension, revocation or refusal to renew the licence pursuant to Section 60 of the said Act and/or prosecution should there be an offence under Taxi Licensing law.
2. In this licence:  
“**Authorised officer**” has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.  
“**The council**” means the City and County of Swansea.  
“**Restricted Private Hire vehicle**” means a vehicle which is currently licensed by the Council under Section 48 of the Act (See restricted Private Hire Operators Conditions)  
“**Restricted Licence**” means the licence issued by the Council for the purpose of identifying the vehicle as a restricted Private Hire Vehicle.  
“**The Proprietor**” has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.

### GENERAL

3. The Restricted Private Hire Vehicle Licence can only be used for restricted Private Hire Journeys pre-booked with a licensed operator and identified in the licence. These are:  
  
School Transport contracts;  
Airport travel;  
Executive Hire.
4. All vehicles must be presented for inspection when and where required by an authorised officer, and must comply with all current statutory requirements for road vehicles and with the conditions imposed by the Council.  
**A fee of £50 will be charged for any inspection appointment missed without reasonable excuse and without 2 working days’ notice. (Each case will be decided on its own merit)**  
Any vehicle(s) that fails the test shall not be used to carry passengers for hire or reward until the vehicle has been re-tested and found to be roadworthy.
5. Vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration. Vehicles will be relicensed on merit.
6. All vehicle licences will remain in force for one year and the expiry date will be the last day of the month preceding the month of issue.
7. No licence will be issued until the appropriate fee is paid. Where payment is made by cheque which is subsequently dishonoured, any licence issued will be null and void.

8. a) The licence holder must present the registration document (V5c) at the time of grant of the licence or where the vehicle has been modified. The licence holder must present a valid certificate of insurance issued under the Road Traffic Act 1988 and current M.O.T. certificate, at the time of payment of the appropriate fee. The licence holder must present the vehicle for an official inspection at the designated centre.
- b) Where a vehicle is modified in some way, the Licensing Authority must be satisfied that the standard of work undertaken meets current safety legislation and standards. Proprietors must submit one of the following original documents prior to a licence being issued:
  - i) EC Whole Vehicle Type Approval (ECWVTA) ii) National Small Series Type Approval (NSSTA)
  - iii) Certificate of Conformity (CoC) iv) Individual Vehicle Approval (IVA) v) Single Vehicle Approval (SVA).

**N.B. Where the above certificates are not available due to the modifications being undertaken following the sale of the vehicle, proprietors will be required to undertake a Voluntary Standard Single Vehicle Approval with a VOSA Inspector**

## VEHICLE SPECIFICATION AND MAINTENANCE

9. All vehicles must be right hand drive and have 2 doors each side of the vehicle. All passengers shall have access to a door capable of being opened from inside the vehicle.
10. The maximum permitted number of passengers will be decided following an examination of the vehicle by the Council.
11. The proprietor shall not at any time permit the number of passengers carried to exceed the number of passengers for which the vehicle is licensed.
12. All vehicles must be constructed and maintained so as to be safe and comfortable and the doors must open sufficiently wide so as to allow easy access to and egress from the vehicle. **Where a vehicle has been adapted to carry wheelchairs then all ramps/lifts and retaining devices shall be properly maintained and the drivers trained in their correct and safe use.**
13. i) Where a vehicle is provided with a spare wheel, including the use of a space saver tyre the proprietor shall ensure that at all times that the spare wheel complies with current legal requirements (paying particular attention to depth of tread) and wheel changing equipment including a jack and wheel brace is carried at all times.
  - ii) a) 'Run Flat' and or 'Space-saver' spare tyres are acceptable on licensed vehicles if they conform to the Original Manufacturers' Specification. Where a puncture does occur, proprietors and drivers shall seek alternative arrangements for continuation of the passenger's journey
  - b) If a 'Run Flat' and or 'space-saver' spare tyre is utilised on a vehicle in order to complete a hiring it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement and used in accordance with the Nov 2018

manufacturer's guidelines. No further fares may be taken whilst the 'Run Flat' or 'space-saver' spare tyre is being used on the vehicle.

iii) Temporary Repair Kits:

- a) vehicles approved for licensing with the use of a temporary repair kit in place of a spare wheel will be equipped with a repair kit at all times for use in accordance with the manufacturer's guidelines. Where the temporary repair kit is used it shall immediately be replaced with another temporary repair kit.
  - b) where a puncture does occur, proprietors and drivers shall seek alternative arrangements for continuation of the passenger's journey before utilising the temporary repair kit;
  - c) vehicles that utilise a temporary repair kit in order to complete a hiring shall be used in accordance with the manufacturer's guidelines and not be used for any further hiring until the wheel or tyre had been replaced;
  - d) vehicle proprietors of vehicles that utilise a temporary repair kit will keep a record of the date and time the repair kit was last used in the vehicle at all times and will obtain and retain evidence that the wheel or tyre had been replaced. Such information will be readily available for Officers upon request.
14. All seats shall be fitted with safety belts which comply with and are installed in accordance with British Standards and current legal requirements. A booster cushion or child seat shall be provided for children on request.
15. All vehicles must meet the following minimum dimensions internally:-
- HEIGHT**  
From the top of the seat cushions (without compression) to the roof at the lowest part must not be less than 810 mm.
- KNEE SPACE**  
The measurement between the rear of the front seats and the squab of the back seat must not be less than 700 mm. Where the front seats are capable of adjustment the measurement is to be made in the mid-position
- SEATS (WIDTH)**  
The width of the back seat from the squab to the front edge must not be less than 407 mm.
- REAR SEAT (LENGTH)**  
The length of the rear seat measured in a straight line lengthwise on the front of the seat must not be less than 1220 mm.
16. All vehicles must carry a suitable 1kg fire extinguisher, indelibly marked with the vehicle plate number, readily visible for emergency use and maintained annually in accordance with British Standards. Written confirmation of maintenance will be required.

17. Any carpets, fixtures or fittings must be removed on inspection at the request of any authorised officer or vehicle examiner. Refusal to comply with any reasonable request of such an officer will result in the vehicle failing the inspection.
18. The interior and exterior of the vehicle must be kept clean and tidy and the vehicle must be able to accommodate a reasonable amount of luggage at all times.
19. The proprietor shall keep any radio equipment installed in the vehicle in good working order but shall not install in the vehicle:-
  - a) any two-way radio equipment (including Citizens Band Radio) without first notifying the insurers of the vehicle and having their confirmation endorsed on the certificate of motor insurance.
  - b) any radio equipment which is capable of scanning more than one frequency.
20. Tinted windows shall conform with the legal requirements of the current Road Vehicle (Construction and Use) Regulations and taxi-meters will not be fitted to the vehicles.

### **NOTIFICATIONS**

21. No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without prior approval of the Council at any time while the licence is in force.
22. Any accident damage to a vehicle must be reported to the Licensing office, in writing, within 72 hours and the vehicle made available for inspection.

### **DISPLAY OF LICENCE ON THE VEHICLE**

23. Vehicle plates and stickers must be securely fixed to the vehicle. The vehicle plate is to be fixed on the bumper bar or boot lid/rear door between centre line and the offside of the vehicle. Stickers must be affixed to the front near and offside doors of the vehicle. The plate and stickers must be kept clearly visible at all times. The vehicle plate must be returned to the Council on expiry of the licence.

### **TRANSFER OF VEHICLE LICENCE**

24. No vehicle may be transferred or substituted for that licence except in accordance with the approved procedure.
25. Where a proprietor transfers his interest in the licensed vehicle to a person other than the proprietor named in the licence, he shall notify the Council within fourteen days after the transfer specifying the name and address of whom the vehicle has been transferred to.
26. The fitting of a CCTV type camera within the vehicle is permitted in order to protect the driver and passengers. The proprietor shall ensure that the use of such equipment complies with all requirements of current legislation. If a camera is fitted then Notices informing passengers of its use must be displayed inside the vehicle.

## **INSURANCE**

27. The Proprietor of the Private Hire Vehicle shall keep in force in relation to the user of that vehicle a Policy of Insurance complying in all respects with current Road Traffic legislation and covering the use of the vehicle for the carriage of passengers for hire and reward.
28. On being so required by an authorised Officer, the Proprietor shall produce to the Officer for examination a Certificate of Insurance in respect of the vehicle. If the Proprietor fails to produce such a certificate to the Officer on request, the Proprietor shall within five days of such a request produce it to the Officer or to any authorised Officer at the Licensing office.

## **ADVERTISING**

29. Restricted Private Hire Vehicles may advertise the business of the company/person who holds the licence for the vehicle. No other fittings, signs or advertisements except those approved by the Council or its authorised officers in accordance with the guidelines listed below shall be attached to the inside or outside of the vehicle.

### **GUIDELINES FOR ADVERTISING ON PRIVATE HIRE VEHICLES**

- a. All applications for advertising on a Private Hire Vehicle must be made in writing to the Director of Environment and accompanied by a sample of the advertising proposed.
- b. The quality of submissions must be of an acceptable standard. No faxes will be accepted. Coloured artwork is to be provided in every case and full details of the advertising proposals must be provided.  
  
(NB it is essential that all the details of the proposed advertisement is shown in the original submission. If it is not then the advertisement may subsequently be rejected).
- c. The submission, if it is considered acceptable will be given Provisional Approval.
- d. Final Approval will be given once the advertisement has been placed on the vehicle. An appointment must be made with a Taxi Licensing Officer for a final inspection when the Officer will confirm that the work has been completed in accordance with the provisional approval granted.
- e. The proprietor of any vehicle displaying an advertisement that has not received its final inspection will be required to remove it immediately.
- f. Vehicles displaying advertising without approval of the Council will be in contravention of the conditions attached to the vehicle licence and may be liable to suspension until such time as the material has been removed from the vehicle.
- g. All advertising must comply with the British Codes of Advertising and Sales Promotion and is the responsibility of the agency or individual seeking the Licensing Authority's approval to ensure that they do so.

- h. Any advertisement approved shall be placed on the back passenger doors only, below the windows.

Any company logo, advertising the Operator's or Proprietor's own taxi or private hire business, which has been approved in accordance with condition 29 (d) above, may be displayed on the front bonnet, rear of the vehicle and/or on the back passenger doors only.

- i. Materials used for advertisement must be of a quality not easily defaced or detached. No paper based materials or water soluble adhesive paste shall be used. Advertisements must be affixed directly to the exterior rear door panels of the vehicle or initially attached to an approved magnetic panel which is then attached to the vehicle.

- j. Reflective material is not to be used for advertising purposes.

- k. Each proposal will be considered on its merits but the following advertisements will not be approved:

- \*Those with political, racial, religious, sexual or controversial texts;
- \*Those for escort agencies, gaming establishments or massage parlours;
- \*Those displaying nude or semi-nude figures;
- \*Those likely to offend public taste (depicting violence, obscene or distasteful language)
- \*Those which have any reference to alcohol, tobacco/cigarettes and drugs;
- \*Those promoting discounted fares;
- \*Those advertising jobs;
- \*Those which detract from the integrity and/or identity of the vehicle;
- \*Those which seek to advertise more than one company/service or product.

- l. Advertising on the underside of flip down seats is allowed provided any application received complies with the above guidelines.



# Agenda Item 5



## Report of the Chief Legal Officer

General Licensing Committee – 13 September 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>
	6, 7, 8 & 9	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 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.

Document is Restricted

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

# 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.

Document is Restricted

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

Document is Restricted

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

# 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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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 9

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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