

Notice of a meeting of Cabinet

Tuesday, 14 September 2021 6.00 pm Council Chamber - Municipal Offices

Membership					
Councillors:	Rowena Hay, Peter Jeffries, Victoria Atherstone, Flo Clucas, Mike Collins, Iain Dobie, Martin Horwood, Andrew McKinlay and Max Wilkinson				

Agenda

	SECTION 1 : PROCEDURAL MATTERS	
	CESTION 1.1 ROSEBORAE MATTERS	
1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	MINUTES OF THE LAST MEETING	(Pages
3.	Minutes of 13th July meeting.	(Pages 3 - 12)
	Williates of 15 buly meeting.	0 - 12)
4.	PUBLIC AND MEMBER QUESTIONS AND PETITIONS	
	These must be received no later than 12 noon on Tuesday	
	7 th September.	
	SECTION 2 :THE COUNCIL	
	There are no matters referred to the Cabinet by the Council	
	on this occasion	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE	
	There are no matters referred to the Cabinet by the	
	Overview and Scrutiny Committee on this occasion	
	SECTION 4: OTHER COMMITTEES	
	There are no matters referred to the Cabinet by other	
	Committees on this occasion	
	SECTION 5 : REPORTS FROM CABINET MEMBERS	
	AND/OR OFFICERS	
5.	COMMON LICENSING STANDARDS FOR LICENSING	(Pages
	HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS IN	13 - 48)
	GLOUCESTERSHIRE	

	Report of the Cabinet Member Customer & Regulatory Services	
6.	FOOD SAFETY SERVICE PLAN Report of the Cabinet Member Customer and Regulatory Services	(Pages 49 - 70)
	SECTION 6 : BRIEFING SESSION • Leader and Cabinet Members	
7.	BRIEFING FROM CABINET MEMBERS	
	SECTION 7 : DECISIONS OF CABINET MEMBERS Member decisions taken since the last Cabinet meeting	
	SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	
	SECTION 9 : BRIEFING NOTES Briefing notes are circulated for information with the Cabinet papers but are not on the agenda	
8.	HEALTH AND SAFETY SERVICE PLAN Bernadette Reed, Interim Public & Environmental Health Team Leader	(Pages 71 - 74)
	SECTION 10 : LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS	
9.	LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS The Cabinet is recommended to approve the following resolution:- "That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 3, Part (1) Schedule (12A) Local Government Act 1972, namely: Paragraph 3; Information relating to the financial or business affairs of any particular person (including the	
10.	authority holding that information). EXEMPT MINUTES	(Pages
	Exempt minutes of 13 th July meeting	75 - 80)

Contact Officer: Harry Mayo, Democracy Officer, 01242 264211 Email: democratic.services@cheltenham.gov.uk

Cabinet

Tuesday, 13th July, 2021 6.00 - 7.35 pm

Attendees					
Councillors: Rowena Hay (Leader of the Council), Peter Jeffries (Deputy Leader and Cabinet Member Finance & Assets), Flo Clucas (Cabinet Member Safety & Communities), Mike Collins (Cab Member Housing), Iain Dobie (Cabinet Member Waste & Recycling & Street Services), Martin Horwood (Cabinet Mem Customer & Regulatory Services) and Max Wilkinson (Cabinet Member Climate Emergency)					
Also in attendance: Sarah Farooqi, Tim Atkins, Gemma Bell, Darren Knight, Dav Oakhill					

Minutes

1. APOLOGIES

Apologies were received from Cllrs. Atherstone and McKinlay.

2. DECLARATIONS OF INTEREST

There were none.

3. MINUTES OF THE LAST MEETING

The minutes of the meeting held on 15th June were approved and signed as a correct record.

4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS

There was one public question. As the questioner was not present, the response was taken as read.

1. Question from Nick Fisher, Cheltenham Hackney Carriage Association to the Cabinet Member Customer and Regulatory Services, Councillor Martin Horwood

I refer to the recent petition submitted to the Council and note that any change in the decision to amend the WAV taxi policy lies with the cabinet. I would therefore ask that the cabinet reconsider the implementation of this policy. I see from the minutes of the council meeting that many of your colleagues were sympathetic to the taxi drivers and could understand the difficulties we are experiencing. I would like to correct you on some of the information you quoted. I understand that you are new to this position so were probably only using information provided by you predecessor. It was mentioned that 40,000 taxi drivers had so far switched it was not mentioned that that figure was 45,759 (2015) and has been steadily decreasing every year latest figures from the ONS 38,915 (march 2020 pre pandemic) You say that for disabled passengers in London, Birmingham or anywhere in the West Midlands, every single taxi was wheelchair accessible, the first 2 are correct as they are both cities but according to the ONS the average for the west midlands is 0.6 per 1000 people, exactly the same as Cheltenham.

(adjusted to reflect Cheltenham figures provided by licencing) According to the ONS the national average per 1000 people for Urban with town or city is 0.5 per 1000 people Cheltenham already exceeds this figure. You said that with the National Star college campus in Cheltenham we have a relatively large disabled population. The majority of Wheelchairs at the star college are motorised and either will not fit or are to heavy to go in the vehicles we are expected to provide. The Star college have their own fleet of vehicles specifically to meet the needs of their students. You commented that you believed electric WAV would fall sharply in price and become more widely available. To follow that comment to its conclusion. Drivers are expected to purchase a WAV vehicle now that will are almost exclusively diesel and they would need to be replace in the very near future and that the vehicles they will purchase now will have little or no value on the second hand market as they would be superseded by EV's.

My question is: given all the facts above, are you still in support of this policy considering the climate emergency that has been declared, the difficulties the trade has undergone through this pandemic and knowing the number of drivers this will put out of business?

Response from Cabinet Member

The data cited in the last Council meeting was taken from the Department for Transport data sheet Taxi0104 dated 31st March 2020, but this has now been updated as of 31st March 2021 (https://www.gov.uk/government/collections/taxi-statistics).

The latest data shows a dramatic drop of 48,594 (-16%) in the overall number of licensed vehicles in England & Wales in the last year. The largest numerical drop of 38,755 (-17%) was amongst non-WAV private hire vehicles.

The drop amongst wheelchair accessible vehicles was 7,247 (-18%) but this reduces to 1,709 (-8%) if London is taken out. The fall amongst London cabs alone, all of which are wheelchair accessible, was 5,538 (-29%).

Longer term data from the Department for Transport shows the overall number of licensed vehicles rising steadily in recent years before the sharp drop in the last year. This almost certainly demonstrates a major economic impact on the trade from the pandemic. Although hackney cabs had been declining slightly in recent years, including in London, the drop in the last year was more pronounced. The relative decline in hackney cabs may reflect the rise in app-based competition and other pre-pandemic factors.

In Cheltenham, the data shows a drop of 51 (-30%) in the last year amongst private hire vehicles, almost all of which are non-wheelchair accessible. The fall amongst non-wheelchair accessible vehicles was 24 (-14%) but the number of wheelchair accessible vehicles rose by 8 (+15%).

The data shows that the following authorities in England had achieved at or near 100% WAV hackney cab fleets (figures in brackets show WAVs, non-WAVs):

Blackburn with Darwen (70, 0)

Burnley (33, 0)

Preston (187, 0)

West Lancs (34, 0)

Knowsley (221, 0)

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Liverpool (1426, 0)
St Helens (55, 0)
Wirral (217, 0)
Bolton (102, 0)
Bury (47, 0)
Manchester (1084, 0)
Salford (92, 0)
Stockport (135, 0)
Tameside (150, 0)
Trafford (119, 0)
Cheshire West & Chester (305, 0)
Kingston upon Hull (170, 0)
Bradford (215, 0)
Doncaster (164, 0)
Sheffield (648, 0)
Derby (190, 0)
Nottingham (420, 0)
Rushcliffe (18, 0)
Lincoln (30, 1)
South Holland (36, 0)
Leicester (300, 0)
Corby (114, 0)
Kettering (51, 0)
Northampton (110, 0)
South Staffs (2, 0)
Shropshire (62, 1)
Telford & Wrekin (21, 0)
West Midlands (2117, 0) includes Birmingham, Coventry, Dudley, Sandwell,
Solihull, Walsall & Wolverhampton
Wyre Forest (61, 0)
Norwich (208, 0)
Peterborough (122, 0)
Luton (165, 0)
Bedford (63, 0)
Central Beds (178, 0)
Hertsmere (6, 0)
Three Rivers (14, 0)
Harlow (48, 0)
London (13423, 0)
Oxford (107, 0)
Bracknell Forest (52, 0)
Reading (216, 0)
Wokingham (69, 0)
Basingstoke & Deane (55, 0)
Rushmoor (109, 0)
Epsom & Ewell (36, 0)
Dartford (74, 0)
Maidstone (48, 0)
Chichester (33, 0)
Bristol (455, 2)
Plymouth (319, 0)
On 15 July this week, I will be meeting both the licensed trade's representatives
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and also, separately, National Star amongst others at the Accessibility Forum. I will be happy to discuss both the further issues raised in the question. Further meetings with the trade are also being scheduled. Council unanimously endorsed my response to the petition that confirmed the policy implementation on 31 December 2021 but which also promised to continue engagement and dialogue on the issue.

(A) Matter referred from Overview & Scrutiny Committee

Cllr. Barrell referred a matter from the June meeting of the Overview & Scrutiny Committee. She explained that there had been concerns regarding the changes at Cheltenham General Hospital, and the committee had suggested that the Leader could write to the hospital and to other councils who would be affected by and involved in these changes. The Leader had sent this letter and a positive response had been received, which had been circulated to Cabinet Members.

Cllr. Barrell added that she had attended a meeting of the county council's Health Overview and Scrutiny Committee (HOSC) earlier that day, and that the papers for this meeting suggested that all concerns regarding the Fit For The Future programme had been addressed. She did not believe that this was the case.

5. HOUSING, HOMELESSNESS & ROUGH SLEEPING STRATEGY ACTION PLAN

The Cabinet Member Housing presented the report and noted that when an updated report or action plan was presented to Cabinet, the tracked changes would normally be the main focus. However, in this case, the amount of raw data coming from a wide variety of sources made it impossible to present the changes in this way. Instead, he sought to highlight some of the key issues.

The Housing, Homelessness and Rough Sleeping Strategy 2018-23 was approved by Cabinet in July 2018, and consisted of a five year strategy which set out both the council's vision and its priorities in order to achieve the desired outcomes. During 2020/21, 80 new affordable homes were provided, while significant progress had been made to identify a wide range of sites for the potential delivery of CBC-owned affordable housing across the borough. A pipeline was in place to deliver around 371 affordable homes within 5 years from April 2021.

During the first few months of the new financial year alone, the council and CBH had already delivered 27 new affordable homes at Radford Court, Hesters Way. This was in addition to the land recently acquired at Monkscroft School (potentially delivering 70 affordable homes) and the recent acquisition of land at Swindon Road (subject to planning permission being awarded), which had the potential to provide a further 24 affordable homes.

It was expected that approximately £89m would be invested from the Housing Revenue Account on new affordable homes over 3 years to March 2024. The Cyber Park/Golden Valley development in West Cheltenham would also see the provision of up to 3,700 new homes, of which 35% would be affordable covering a variety of tenures.

He added that during the last year, nearly 300 homes in the private sector in Cheltenham had been made safer, while 13 long term empty homes were been brought back into use. CBH had completed its fire door renewal programme, installing over 6,000 new doors across properties over the last 5 years. It was anticipated that the window replacement and boiler programme would be completed during 2021/22. These improvement programmes had so far contributed to a further uplift in the SAP energy efficiency rating of their homes from 72.02 in 2019 to 72.96 in 2021. Following a funding bid to the government's Decarbonisation Fund Demonstrator Project, CBH were successful in securing a £40k grant to finance the transformation of two low energy performing homes through a 'deep retrofit' pilot, which should be implemented during 2021/22.

He moved onto the topic of tackling homelessness and rough sleeping, acknowledging that the Covid crisis had meant that 2020/21 was a challenging year, particularly during the first national lockdown when housing pathways were significantly reduced. During the year, CBC and CBH responded positively to the government's 'everyone in' message by making 125 placements into emergency, hotel accommodation for those who were either rough sleeping or at imminent risk of rough sleeping. CBC also collaborated closely with partners across the county to bid for funding for the provision of accommodation and the joint commissioning of services for rough sleepers, including £3.8m county-wide funding from the government's Next Steps Accommodation Programme (NSAP). This funding was going towards providing approximately 50 additional new homes in the county for rough sleepers, along with specialist support services to help with tenancy sustainment. The funding also included £24k to furnish 6 CBC homes to be made available specifically for rough sleepers with highly complex needs, and £868k funding from the government's Rough Sleeper Initiative (RSI4), which would enable key services for rough sleepers to continue across the county between July 2021 and March 2022, specifically including the maintenance of existing Somewhere Safe to Stay Hubs in Gloucester and Cheltenham and the larger Assertive Outreach Team. There would also be a Hospital In-Reach worker to ensure rough sleepers going into hospital were not discharged onto the streets. The funding also included a £112k Enhanced Placement Fund, incorporating funding for the winter of 2021/22, to ensure that rough sleepers would always have an off the street accommodation offer.

Finally, he pointed members towards the section on improving the health and wellbeing of communities at part 2.4, and the planned next steps for the year ahead at part 3.1, and asked that members approve the recommendations.

The Cabinet Member Customer and Regulatory Services praised the report and criticised the national government's unwillingness to tackle the homelessness crisis. The affordable homes that the council was providing would make a huge difference to people's lives, as would the support network around them.

The Cabinet Member Finance and Assets suggested that the topic of housing and homelessness was complex and vast, but the report did a good job of covering it.

The Leader added that she was proud of how the council dealt with homelessness and how it supported people who were hard to reach. She acknowledged that some would remain homeless by choice, but they would do

as much as they could to eradicate homelessness. She thanked the Cabinet Member and the officers involved for their work. The Cabinet Member Housing added his thanks to officers both at CBC and CBH.

The Leader moved to a vote, where it was unanimously:

RESOLVED THAT:

1. The Housing, Homelessness & Rough Sleeping Strategy Action Plan Update for 2021 be approved.

6. CABINET APPOINTMENT TO OUTSIDE BODIES

The Leader of the Council presented the report, noting that there was a slight update in that Cllr. Seacome had withdrawn from nomination to the Everyman Theatre. This meant that this would not need to be decided by Council, as previously thought.

The Leader moved to a vote, where it was unanimously:

RESOLVED THAT:

- 1. Nominations/appointments be made to the outside bodies as set out in Appendix 2A in accordance with the following principles:
 - All nominations are made on the basis that the nominee/appointee is a representative of Cheltenham Borough Council insofar as that is compatible with any overriding legal duty to the outside body;
 - Cabinet/the Leader reserves the right at any time to withdraw/terminate a nomination/appointment which it has made;
 - A nomination/appointment to an outside body is referred to Council for determination where consensus on that nomination/appointment cannot be achieved between the political Group Leaders.
- 2. Appointments be made to joint committees as set out in Appendix 2B:
- 3. The Cabinet Member responsibilities for the bodies/groups listed in Appendix 2C be noted;

7. LOCAL DISCRETIONARY BUSINESS RATES RELIEF SCHEMES

The Cabinet Member Finance and Assets presented the report, reminding members that the government had implemented a 100% business rates discount to eligible businesses as part of its Covid support measures. In its budget on the 3rd March 2021, the government announced that this would continue at 100% until 31st June, falling to 66% until 31st March 2022, and then down to 0%. The reliefs were a temporary measure and legislation was not amended, so councils were expected to use discretionary powers to adopt a scheme using government guidance. Details of the schemes were attached at Appendices 2, 3 and 4.

The Leader thanked officers for their quick and effective responses throughout the Covid crisis, which made a real difference for local businesses.

The Leader moved to a vote, where it was unanimously:

RESOLVED THAT:

- The business rates Expanded Retail Discount scheme for 2021/22 as detailed in appendix 2 and the detailed guidance in appendix 4 be approved;
- 2. The Nursery Discount scheme for 2021/22 in line with appendix 3 and the detailed guidance in appendix 4 be approved;
- 3. The Head of Revenues and Benefits be authorised, in consultation with the Cabinet Member Finance and Assets, to implement any further changes in 2021/22 made by the Government to the reliefs detailed in appendix 2;
- **4.** Due to the volume of cases, decisions relating to the application of these reliefs be delegated to the Head of Revenues and Benefits and officers in the Business Rates team. In the case of a dispute reconsideration is to be made by the Executive Director Finance and Assets.

8. FINANCIAL OUTTURN 2020/21

The Cabinet Member Finance and Assets presented the report, which would go on to full Council on 19th July. After a decade of austerity, the council's budget monitoring position had been solid, but then came another challenge in the form of Covid-19. A unique, innovative and ambitious response was required. During the first national lockdown, it was estimated that Covid would create a budget deficit for the council of £1.813m in 2020-21 through additional expenditure and income losses. Council therefore passed a recovery budget in November 2020, including a strategy to review assets for disposal in order to close the income gap. This budget made assumptions about how much the crisis would cost, with an ultimate underspend of £394k compared to this budget. Had the recovery budget not been passed, members would be discussing an enormous overspend at this meeting. Some of the underspend would be used to fund the first steps of a long-term, sustainable recovery for the town.

The Leader added that given the position local authorities found themselves in last year, it was remarkable to end up with an underspend. Income had been lost and things had slowed down, but no services had been cut. It was important to be careful about where this money was spent.

The Cabinet Member Finance and Assets thanked the finance team for their hard work.

The Leader moved to a vote, where it was unanimously:

RESOLVED THAT:

Council be recommended to:

1. Receive the financial outturn performance position for the General Fund,

summarised at Appendix 2, and notes that in delivering services in 2020/21, there was an underspend of £394,663 against the recovery budget approved by Council in November 2020;

- 2. Notes £609,345 of carry forward approved by the Section 151 Officer under delegated powers at Appendix 5:
- Approve the proposal for the use of the underspend after the carry forward requests outlined in Section 2.10 of this report and delegates authority to the Executive Director of Finance and Assets in consultation with the Lead Member for Finance and Assets to ensure the underspend it spent in line with this proposal;
- 4. Note the annual treasury management report at Appendix 7 and note the actual 2020/21 prudential and treasury indicators;
- 5. Note the capital programme outturn position as detailed in Appendix 8 and approve the carry forward of unspent budgets into 2021/22;
- 6. Note the year end position in respect of Section 106 and CIL agreements and partnership funding agreements at Appendix 9;
- 7. Note the outturn position in respect of collection rates for council tax and non-domestic rates for 2020/21 in Appendix 10;
- 8. Note the outturn position in respect of collection rates for sundry debts for 2020/21 in Appendix 11;
- Receive the financial outturn performance position for the Housing Revenue Account for 2020/21 in Appendices 12 and 13 (as detailed in Section 11) and approves the carry forward of capital budgets in 2021/22 as set out in paragraph 11.9.

9. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Safety and Communities reported that she had taken a decision to get the council involved in the Summer of Play, which provided activities for children and families in the town's parks and gardens. She updated members on the Laptops for Learning program, which had received 50 laptops from DXC and a £2,000 donation from CityFibre. The laptops would be refurbished and allocated to children who did not have one at home. She thanked all those who had donated to the scheme.

The Cabinet Member Customer and Regulatory Services reported that he had recently approved a revised Gambling Policy, which would go to consultation very shortly. The reduction of stakes on fixed odds betting terminals had made a difference, but there was still more to be done. He added that he was proceeding with the promised engagement on the council's WAV policy, and would meet with the taxi trade and the Disability Forum in the coming weeks. Proposals for a larger Christmas market, in order to fit in all the licensed stalls, had been approved. Clubs would reopen shortly, and he hoped that government guidance would be forthcoming on this.

The Cabinet Member Waste, Recycling and Street Services reported Cheltenham had been chosen to work with Keep Britain Tidy on a waste reduction project for communal residences, building on work with CBH in Lansdown and Monkscroft.

The Cabinet Member Housing added that the council had recently agreed to take in up to 7 Afghan families for services to British forces, as part of up to 35 families taken in across the county. In the past, similar schemes were administered by the Gloucestershire Fire and Rescue Service, but they would not be involved in this scheme. CBC had contacted partners to cover several key posts.

10. LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS

Members resolved to move into exempt session.

11. EXEMPT MINUTES

The exempt minutes of the meeting held on 15th June were approved and signed as a correct record.

12. A PROPERTY MATTER (1)

In the absence of the Cabinet Member Cyber and Strategic Transport, the Leader presented the report, which related to a confidential property matter.

She moved to a vote, where it was unanimously:

RESOLVED THAT:

1. The recommendations be approved.

13. A PROPERTY MATTER (2)

In the absence of the Cabinet Member Cyber and Strategic Transport, the Leader presented the report, which related to a confidential property matter.

She moved to a vote, where it was unanimously:

RESOLVED THAT:

1. The recommendations be approved.

14. THE CHELTENHAM TRUST - CAPITAL GRANT AWARD TO SUPPORT THE REDEVELOPMENT OF THE WILSON ART GALLERY AND MUSEUM

In the absence of the Cabinet Member Culture, Wellbeing and Business, the Leader presented the report, which related to a capital grant award to support the redevelopment of The Wilson Art Gallery and Museum.

She moved to a vote, where it was unanimously:

RESOLVED THAT:

1. The recommendations be approved.

Chairman

Cheltenham Borough Council Cabinet – 14 September 2021

Adoption of Common Licensing Standards for Taxi and Private Hire Licensing

Accountable member	Councillor Martin Horwood, Cabinet Member Customer & Regulatory Services					
Accountable officer	Mike Redman, Director of Environment					
Ward(s) affected	All					
Key/Significant Decision	No					
Executive summary	The Department for Transport (DfT) published its Statutory Taxi and Private Hire Vehicle Standards in July 2020 with a strong focus to protect all passengers and users of taxis and private hire transport services. The statutory guidance makes it clear that the Government expects the recommendations contained within it to be implemented unless there is a compelling local reason not to do so.					
	In light of the DfT statutory standards and requirements contained within it, the licensing authorities in Gloucestershire have collectively undertaken a review of their hackney carriage and private hire licensing policies. As a result of this combined effort, the licensing authorities in Gloucestershire have drafted proposed common licensing standards for the county based on the requirements in the statutory standards document.					
	The draft common taxi and private hire licensing standards will mean that the same high standards will apply anywhere in the county, based on national guidance and best practice to promote public safety and protection.					
	Consultation has been undertaken and this report sets out the outcome of this and recommends adoption of these common standards by Cabinet.					
Recommendations	Cabinet is recommended to:					
	1. Note the consultation feedback;					
	2. Adopt the Common Licensing Standards for Taxi and Private Hire Licensing attached at Appendix 2 of this report; and					
	3. Delegate authority to the Licensing Team Leader to put in place the practical measures to implement the common licensing standards policy.					

Financial implications	No financial implications arising from this report.						
	Contact officers Andrew Toylor Andrew Toylor @chaltenham may ule						
	Contact officer: Andy Taylor, Andrew.Taylor@cheltenham.gov.uk						
Legal implications	The Statutory Taxi and Private Hire Standards ("Standards") have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017. Section 177(4) of the Policing and Crime Act 2017 states that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section. Failure to adopt these Standards could leave the Council open to legal challenge.						
	There are data protection implications arising from the adoption of the Standards, particularly around information sharing between licensing authorities and third parties. It is recommended that the relevant privacy notices and associated documents are reviewed and updated as necessary to reflect the proposed changes.						
	Contact officer: roslyn.meenagh@onelegal.org.uk, 01684 272 207						
HR implications	No direct HR implications arising from this report.						
(including learning and organisational development)	Contact officer: Clare Jones, clare.jones@publicagroup.uk						
Key risks	As identified in Appendix 1.						
Corporate and community plan Implications							
Environmental and climate change implications	N/A						
Property/Asset	N/A						
Implications	Contact officer: Dominic.Stead@cheltenham.gov.uk						

1. Background

- 1.1 The Department for Transport (DfT) published its Statutory Taxi and Private Hire Vehicle Standards in July 2020 with a strong focus to protect all passengers and users of taxis and private hire transport services.
- 1.2 The statutory guidance makes it clear that the Government expects the recommendations contained within it to be implemented unless there is a compelling local reason not to. Furthermore, it is noted that the statutory standards document sets out a framework of policies that, under section 177(4), licensing authorities "must have regard" to when exercising their licensing and safeguarding functions.
- 1.3 In light of the DfT statutory standards and requirements contained within it, the licensing authorities in Gloucestershire have collectively undertaken a review of their hackney carriage and private hire licensing policies. As a result of this combined effort, the licensing authorities in Gloucestershire have drafted proposed common licensing standards for the county based on the requirements in the statutory standards document.
- 1.4 The DfT statutory standards principally relate to driver and private hire operator licensing. As such, areas not in scope of the DfT statutory standards, for example vehicle fitness and licensing standards, are not included in the consultation and remain unaffected by the draft common licensing standards.
- 1.5 The only exception to local vehicle fitness and licensing standards covered by the statutory guidance is CCTV. However, further work is required on this and a separate consultation will be undertaken on the statutory guidance's requirements with regards to CCTV.
- 1.6 At the moment, each of the six licensing authorities in Gloucestershire decide on their own taxi and private hire licensing standards and policies. The practical implication of this is six different interpretations on the question of "fit and proper" person and other standards designed to protect the public.
- 1.7 The draft common taxi and private hire licensing standards will mean that the same high standards will apply to anywhere in the county, based on national guidance and best practice to promote public safety, protection and, as a secondary consideration, reduce unnecessary bureaucracy for businesses that operate across district boundaries.

2. Common Licensing Standards for Taxi and Private Hire Licensing

- **2.1** As mentioned above, the DfT statutory standards principally relate to driver and private hire operator licensing.
- **2.2** A copy of the draft common standards is attached at appendix 2 of this report.
- **2.3** A number of important aspects to promote public safety have been included in the draft common licensing standards. These are:
- **2.3.1** A definitive definition of "fit and proper" and assessment criteria to assist Members when making decisions;
- 2.3.2 Requirements for every licensed driver in Cheltenham, and the county, to be subscribed to the DBS update service which will also allow officers to undertake more frequent bulk checking of licence holders against DBS records;
- **2.3.3** An updated "Relevance of Convictions Policy" taking into account national best practice from both the DfT and Institute of Licensing:

- 2.3.4 An updated and common "Enforcement and Complaints Policy";
- **2.3.5** Criminality checks for vehicle proprietors;
- 2.3.6 Criminality checks for private hire vehicle operators; and
- **2.3.7** Requirements on licensed private hire operator(s) ensuring that all booking and dispatch staff have had a basic DBS check.

3. Phase 2 of Common Licensing Standards

- 3.1 Phase 1 of the common licensing standards focussed principally on driver licensing. However, the statutory guidance includes a number of other issues yet to be fully addressed including consideration of CCTV in licensed vehicles, a more structured and formal approach to mandatory safeguarding and equality training and a common procedure(s) for immediate suspension and revocation of licences.
- 3.2 The outstanding work will be picked up by the county senior licensing group as part of a second phase of work and will be subject to separate consultation and decision making.

4. Cheltenham Supplementary Consultation

- **4.1** In addition to the common standards consultation, the opportunity will also be taken to consult on a number of local policy changes not in scope of the DfT statutory guidance.
- **4.2** The supplementary consultation is included in the consultation document at appendix 2 for reference.

5. Reasons for recommendations

5.1 To ensure the authority's licensing standards in relation to taxi and private hire services are based on national best practice and take into account the national statutory guidance.

6. Alternative options considered

6.1 Cabinet can decide not to approve the draft common licensing policy for consultation. This is however not advisable because the authority will be unable to adequately and safely fulfil its statutory taxi and private hire licensing duties.

7. How this initiative contributes to the corporate plan

7.1 This consultation seeks to ensure the highest possible public safety standards in taxi and private hire licensing. As such, this work and report cut across a number of corporate priorities, including delivering services to meet the needs of residents and communities and meeting the opportunities and challenges.

8. Consultation and feedback

- **8.1** Consultation was undertaken for 12 weeks from Tuesday 13 April 2021 to Tuesday 6 July 2021.
- **8.2** Two consultation responses were received, both in support of the common licensing standards. The consultation feedback is attached at appendix 3.

Report author	Contact officer: Louis Krog, Iouis.krog@cheltenham.gov.uk			
Appendices	Risk Assessment Draft Common Licensing Standards for Taxi and Private Hire Licensing			
Background information	DfT statutory taxi and private hire vehicle standards			
	Licensing Sub-Committee - Miscellaneous - Wednesday, 7th July, 2021 6.00 pm			
	Decision to approve consultation on the draft common licensing standards for taxi and private hire licensing			

Risk Assessment Appendix 1

The risk			Original risk score (impact x likelihood)		Managing risk							
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likeli- hood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
	If the authority is not willing to consider common licensing standards for drivers then there is a risk that the authority will not be able to adhere to the requirements of the new statutory guidance.	Director of Environment	April 21	2	3	6	Accept	Approve the consultation		Licensing Team Leader		
	If the authority is not willing to consider common licensing standards for drivers then there is a risk that different standards might pose a public safety risk.	Director of Environment	April 21	3	2	6	Accept	Approve the consultation		Licensing Team Leader		- 990
]

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close

Common Licensing Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire













Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire

Contents

Introduction	
Licensing Authorities	3
General Principles	3
Licensing Policies	
Ancillary Policies	3
Regulatory Structure	3
Enforcing the Licensing Regime	4
Specific Policies & Procedures	4
Fit & Proper	4
Information Sharing	4
Criminal records checks and information	
Licensee self-reporting	5
Complaints against licensees	
Certificate of Good Character	5
Immediate suspension and revocation of licences	6
Hackney Carriage & Private Hire Drivers	7
Duration of licences	
Mandatory Training	7
Language proficiency	7
Hackney Carriage & Private Hire vehicle proprietors	8
Criminality checks for vehicle proprietors	8
Private Hire Operators	9
Duration of licences	9
Criminality checks for private hire vehicle operators	9
Booking and dispatch staff	9
Record keeping	10
Appendix A - Table of Delegations	11
Appendix B – Relevance of Convictions Policy	13
Appendix C - Enforcement and Complaints Policy & Procedure	21

Introduction

- 1. Following the publication of the Department for Transport's ("DfT") Statutory Taxi and Private Hire Vehicle Standards ("the statutory guidance"), the licensing authorities for Gloucestershire has adopted common standards for licensing of hackney carriage and private hire drivers, vehicle proprietors and operators. Please refer to the scope below for further information. These common standards are based on the statutory guidance.
- 2. The purpose of these common standards is to set a common basic licensing standard for all licence holders and new applicants to promote best practice, maintain high safeguarding standards and to reduce the burden on licence holders and businesses.
- 3. The scope of the common standards are outlined below and individual licensing authorities retain the right to set its own licensing standards for aspects that are not included in scope.

Licensing Authorities

The Gloucestershire licensing authorities that have signed up to the commons standards are:

- 1. Cotswold District Council
- 2. Forest of Dean District Council
- 3. Gloucester City Council
- 4. Stroud District Council
- 5. Cheltenham Borough Council
- 6. Tewkesbury Borough Council

General Principles

Licensing Policies

Each licensing authority that has adopted these common standards will have a comprehensive and a cohesive licensing policy document that brings together procedures on taxi and private hire vehicle licensing including these common standards.

Licensing policy documents will be reviewed every five years or more frequently should there be significant issues arising in their area, and their performance annually. Changes to adopted policies will be consulted on as appropriate including the local licensed trade, with licensing authorities that have adopted these common standards and other key stakeholders.

Any changes in licensing policy and/or requirements will be followed by a review of the licences already issued in accordance with the statutory guidance and on a case to case basis.

Ancillary Policies

Although not in scope of these common licensing standards, each licensing authority that has adopted these common standards will have in place the following ancillary policies:

- Whistleblowing policy and procedure for raising concerns about licensing matters and procedures
- Data sharing agreements and processes to enable sharing licensing information with other licensing authorities
- Procedure(s) for immediate suspension and revocation of licences as circumstances dictate.

Regulatory Structure

Each licensing authority that has adopted these common standards will operate its licensing function in accordance with its own scheme of delegation.

Enforcing the Licensing Regime

The licensing authorities that have adopted these common standards collectively acknowledge the importance of a fair and robust enforcement scheme and approach.

To this end, the following measures have been adopted:

- 1. Common Enforcement and Complaints Policy & Procedure (Appendix C)
- 2. Joint authorisation of enforcement officers off the licensing authorities that have adopted these common standards;
- 3. Information sharing agreements between the licensing authorities that have adopted these common standards

Specific Policies & Procedures

Fit & Proper

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. The question of whether a person is a fit and proper person will be based on the following standard:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

The overriding consideration will be safeguarding the public. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the Licensing Sub-Committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Licensing officers are delegated in accordance with the table set out in **Appendix A** including for dealing with serious matters that may require the immediate action in relation to a licence.

Information Sharing

Criminal records checks and information

The assessment of fit and proper includes, amongst other things, an assessment of an applicant or licensee's character and any relevant information relating to current or previous history.

Hackney carriage and private hire applicants or licensees will be subject to enhanced criminal records checks through the Disclosure & Barring Service (DBS) including checks against the national barred list.

The DBS check must satisfy the following:

- Workforce must state 'Other Workforce'
- Child and Adult Barring lists must be included

Appendix B, outlines the common standards for rehabilitation times relating to criminal records and other relevant matters outlined.

Hackney carriage and private hire applicants or licensees must be subscribed to the DBS's Update Service.

Each of the licensing authorities that have adopted these common standards will undertake six monthly enhanced DBS checks including checks against the children and adult Barred Lists for licensed drivers. The six month checking requirement will be brought into scope once these standards have been adopted (Autumn 2021).

In the interests of public safety, a licence is unlikely to be granted to any individual that appears on either barred list.

Each of the licensing authorities that have adopted these common standards will have also subscribe to the national refusals database (NR3). Hackney carriage and private hire applicants or licensees must declare on application whether they have had a hackney carriage and private hire driver's licence refused or revoked by another authority. Each applicant and licensee's application will be checked against the NR3 database to confirm if the information declared is correct and accurate.

Licence refusals and revocations will also be recorded on NR3 database. A decision to refuse or revoke a licence where this decision related to a risk of harm to a child or vulnerable adult, will be referred to the DBS and Gloucestershire Constabulary.

Licensee self-reporting

Licence holders are required to notify the issuing authority **within 48 hours** of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.

An arrest for any of the offences mentioned above is likely to result in a review by the issuing authority as to whether the licence holder is fit to continue.

Please also refer to the relevance of convictions policy at **Appendix B** for more information on the relevance of other convictions, arrests, cautions and criminal investigations.

Complaints against licensees

Licensees are required to display, in their licensed vehicles, guidance for passengers on making complaints directly to the licensing authority. The guidance for passengers must be displayed where it can easily be read. Signage to be displayed in licensed vehicles showing the guidance will be issued by the licensing authority. The signage will include:

- the licensing authority's name, contact email and address,
- the vehicle plate number for reference when making complaint,
- the licensing authority's website address where there will be further information for passengers about how to make complaint.

Licensees who are found to not be displaying the complaint guidance face a suspension of their vehicle licence and a possible review of their driving licence.

Complaints will be recorded, investigated and appropriate action taken in accordance with the Enforcement and Complaints policy at **Appendix C**.

Certificate of Good Character

Where any applicant has been resident abroad at any time from the age of 18 prior to an application they must provide a Certificate of Good Conduct, a Criminal Record Check or similar document from each and every country within which they have been resident.

Residency for these purposes is considered by this Licensing Authority as where the person has lived in a country for longer than 6 months in a given calendar year. Where this Certificate has been produced in a non-English language, the applicant is required to produce a translation of the Certificate from the Embassy or Consulate of that country and provide the original document. An exception might be permitted where a refugee has been allowed to stay in the UK and has been given asylum, and this exception will only apply to that country.

Criminal records checks for overseas applicants, will assist you further in obtaining this document.

Immediate suspension and revocation of licences

Where it comes to the attention of a licensing authority that the fitness of a licence holder has been called into question, which raises concerns as to whether the relevant licence holder should be allowed to continue to operate under their licence and that decision cannot wait until the next scheduled Licensing Sub-Committee, the licensing authority will decide if immediate action is necessary under its own scheme of delegation. Immediate action can include a decision to suspend or revoke the licence.

Circumstances that might give rise to concern about the fitness of a licence holder would include, for example, serious complaint, criminal investigation, serious allegation, formal caution, conviction or any other circumstances deemed sufficiently serious that requires immediate action.

For the avoidance of doubt, licence holder relates to a driver, vehicle and/or operator licence.

Hackney Carriage & Private Hire Drivers

Duration of licences

Hackney carriage and private hire driving licences will be granted for a standard period of three years.

Individual licensing authorities retain the right to issue shorter driving licences in exceptional circumstances where circumstances deems this appropriate.

Mandatory Training

Applicants for a hackney carriage or private hire driving licence must undertake mandatory safeguarding and equality awareness training prior to the issue of their licence. A common training approach and provision has been adopted by licensing authorities that have adopted these common standards.

Existing licensees will be required to undertake refreshers training every three years as a condition of the grant of their licence.

Language proficiency

The assessment of fit and proper includes an assessment of an applicant or licensee's English language proficiency. A lack of English language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

Applicants for a hackney carriage or private hire driving licence must therefore have a sufficient English language proficiency and be able to demonstrate this.

Some applicants may not be required to take the English proficiency test. This is the case if they can demonstrate their ability to communicate in English by providing an appropriate educational certificate for a qualification related to English. Acceptable qualifications may include a GCSE (or equivalent) in a subject such as English language or literature, a degree in a subject containing substantial English content, or an NVQ or BTEC in a subject that requires its students to communicate well in English.

If applicants are unable to provide such a certificate, or if the licensing officer is not satisfied that the certificates provided sufficiently demonstrate the applicant's ability to communicate in English, the applicant will need to pass the English proficiency test.

English language proficiency requirements will apply to new applicants from date of adoption of these standards however, discretion remains to refer existing licence holder for an assessment on a case to case basis.

Hackney Carriage & Private Hire vehicle proprietors

Criminality checks for vehicle proprietors

Licensed vehicle proprietors will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the vehicle licence.

Whether a licensed vehicle proprietor is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at Appendix A.

Should the licensed vehicle proprietor cease to hold a driver hackney carriage or private hire driver licence a basic certificate should will be required immediately.

A refusal to license an individual as a hackney carriage or private hire driver or to suspend or revoke a driver licence, does not automatically mean that that individual cannot be issued or continue to hold a hackney carriage of private hire vehicle or private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a vehicle proprietor will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Private Hire Operators

Duration of licences

Private hire operating licences will be granted for a standard period of five years.

Individual licensing authorities retain the right to issue shorter driving licences in exceptional circumstances where circumstances deems this appropriate.

Criminality checks for private hire vehicle operators

Licensed private hire operator(s) will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the operating licence.

Whether a private hire operator(s) is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at **Appendix B**.

Should the private hire operator(s) cease to hold a driver hackney carriage or private hire driver licence, a basic certificate should will be required immediately.

Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a private hire operator(s) will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

A private hire vehicle operator licence may be applied for by a company or partnership. In this case, the 'fit and proper' test will apply to each of the directors or partners in that company or partnership.

A licensed private hire operator issued to a company or partnership must advise the licensing authority of any change in directors or partners. Any change to directors or partners will require additional criminality checks.

Booking and dispatch staff

Licensed private hire operator(s) will be subject to a licence condition ensuring that all booking and dispatch staff have had a basic DBS check. In addition, private hire operators must ensure they have written policies and procedures in place to:

- a. ensure criminality checks are undertaken on all booking and dispatch staff at appropriate intervals; and
- b. set out its approach on employing all booking and dispatch staff that are ex-offenders.

Where a licensed private hire operator has outsourced its booking and dispatch function that licensed private hire operator must ensure the third-party have adequate arrangements in place as outlined above.

Record keeping

As a common standard enforced by way of a licensing condition, all licensed private hire operators will be required to record the following information for each booking accepted:

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.



Appendix A - Table of Delegations

Matter to be dealt with	Full Committee	Sub-Committee	Licensing Officers	
Full policy review	All cases			
Application for driver's licence, with no convictions			All cases	
Application for driver's licence, with relevant convictions		Cases where referral for determination required, other than traffic offences	Cases in relation to traffic offences	
Suspension of driver's licence (public safety)		All cases where referral for determination required		
Revocation of driver's licence (public safety, immigration)		Cases where referral for determination required	Cases where immediate effect required	
Application for vehicle licence			All cases	
Suspension of vehicle licence (public safety)			All cases with a reasonable cause	
Revocation of vehicle licence (public safety)		Cases where referral for determination required	Cases where immediate effect required	
Application for operator's licence			All cases	
Application for operator's licence, with relevant convictions		All cases where referral for determination required		
Suspension of operator's licence (public safety)		All cases where referral for determination required		
Revocation of operator's licence (public safety)		Cases where referral for determination required	Cases where immediate effect required	
Assistance dogs in taxis: exemption certificate request forms			All cases	

Decision on whether a complaint is		All cases
irrelevant, frivolous, vexatious, etc.		



Appendix B – Relevance of Convictions Policy

GLOUCESTERSHIRE LICENSING AUTHORITIES – TAXI AND PRIVATE HIRE CONVICTIONS POLICY

INFORMATION FOR APPLICANTS AND EXISTING LICENCE HOLDERS

- 1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.
- 2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused or an existing licence holder will have their licence revoked. For other offences the policy gives the times scales that it is expected will have elapsed since the conviction before an application will be granted.
- 3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Licensing Sub-Committee for consideration who will take account of this policy. The obligation will on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Licensing Sub-Committee to consider.
- 4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made within 21 days of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
- 5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may **not** use the licence until any decision is made by the Court
- 6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser or those offences not included. It is not reasonable that those licences should be automatically be revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

OVERVIEW

- 7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.
- 8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
- 10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction checks on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
- 11. Taxi legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence.
- 12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex Assessment of Previous Convictions. https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards
- 13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.
- 14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
- 15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:
 - Relevance and date of the offence
 - Sentence imposed by the court
 - Age of person and circumstances when the offence was committed
 - Subsequent periods of good behaviour
 - Overall conviction history
 - Any history of complaints made to the Licensing Authority against an existing licence holder.
 Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
 - Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process

- Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services
- Any other matters that are relevant
- 16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
- 17. A caution is regarded in exactly the same way as a conviction.
- 18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
- 19. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no "spent" convictions and that any and all criminal convictions (apart from "protected convictions" and "protected cautions" where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered
- 20. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.
- 21. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
- 22. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 25. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the

licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.

- 27. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
- 30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

OFFENCES

Crimes resulting in death

31. Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licence holder who is convicted of the above will have their licence revoked.

Exploitation

32. Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional, financial abuse, domestic abuse, harassment and stalking but this is not an exhaustive list.

Offences involving violence against the person

- 33. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children, young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.
- 34. Where an applicant has a conviction for an offence of violence against the person, 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. A licence holder convicted of the above will have their licence revoked

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm
- c. Actual bodily harm
- d. Grievous bodily harm with intent

- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- I. Affray
- m. Obstruction

Possession of a weapon

35. Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked

Sexual offences

- 36. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.
- 37. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked
- 38. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list. A licence holder who goes on any of the above will have their licence revoked
- 39. Sexual/Indecency Offences include (this is not an exhaustive list)
 - a. Rape
 - b. Assault by penetration
 - c. Offences involving children or vulnerable adults
 - d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
 - e. Making or distributing obscene material
 - f. Possession of indecent photographs depicting child pornography.
 - g. Sexual assault
 - h. Indecent assault
 - i. Exploitation of prostitution
 - j. Soliciting (kerb crawling)
 - k. Making obscene / indecent telephone calls
 - I. Indecent exposure
 - m. Any similar offences (including attempted or conspiracy to commit) offences
- 40. Any licence holder charged with, convicted or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

Dishonesty

- 41. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously
- 42. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of any of the above will have their licence revoked
- 43. Dishonesty offence includes (this is not an exhaustive list)
 - a. Theft
 - b. Burglary
 - c. Fraud
 - d. Benefit fraud
 - e. Handling or receiving stolen goods
 - f. Forgery
 - g. Conspiracy to defraud
 - h. Obtaining money or property by deception
 - i. Other deception
 - j. Any similar offence

Drugs

- 44. Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 45. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked

Discrimination

- 46. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked
- 47. Examples of Discrimination offences include (this is not exhaustive list)
 - a. Racially aggravated common assault
 - b. Any racially-aggravated offence against a person or property.

- c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- d. Offences under Equality Act 2010
- e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

Motoring convictions

- 48. Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.
- 49. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points
- 50. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years they are 'valid' for 10 years. There is more information on the Government's website https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence
- 51. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
- 52. Where an applicant has a major conviction the application will be refused whilst the relevant points remain 'valid' on their driving licence.
- 53. Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the Licensing Authority considers that the licensee remains a fit and proper person to retain a licence.
- 54. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of up to 6 points, a licence holder can agree to complete a driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Licensing Sub-Committee
- 55. Where a licence holder has more than 6 valid penalty points for driving offences their licence will be revoked.

Drink driving/driving under the influence of drugs

56. Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked

Using a hand-held device whilst driving

- 57. Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later. A licence holder convicted of the above will have their licence revoked.
- 58. Where the offence is dealt with as driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least four years have passed. This is the length of time these points remain current of the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a held-hand mobile telephone or a hand-held device, will have their licence revoked.

Hackney Carriage and Private Hire Offences

59. Where an applicant has any offences under any relevant hackney carriage or private hire legislation a licence with not be granted until at least 7 years have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked

Appendix C - Enforcement and Complaints Policy & Procedure

Enforcement

This policy takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring in the vehicle for an inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Complaints by the Public

The public are able to make complaints to the licensing service about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing Officers will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing Officers may request the licence holder to attend an interview in order determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

Actions that may be Taken Following Enforcement or Complaint

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public

Action	Examples (but not an exhaustive list)
Take no action	 Breach, offence or complaint is proven to be false. Matter is minor or unproven and there is no previous history
Verbal or written advice for example recommendation to re- take driver assessment test	Matter is minor and/or due to misunderstanding by the licence holder
Verbal or written warning	 Complaint made by the public Minor traffic offence Contravention of the code of conduct or dress code
Fixed penalty notice	Smoking offences in a licensed vehicle
Immediate suspension or revocation of licence	 Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective Suspension of driver licence (s 61 (2B) if in interest of public safety for example failing a medical, safeguarding or serious criminal allegations Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical
Suspension of licence – 21 days notice	Suspension of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory
Simple caution issued by authorised officer	A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending
Review of the licence by the Licensing Sub- Committee	 A licence holder receives criminal conviction, police caution, major motoring offence, safeguarding concern or serious complaint or allegation A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period A licensed driver who has accumulated more than 6 current points on their driving licence Any matter where a possible outcome is the revocation of the licence
Prosecution	 Using an unlicensed vehicle Unlicensed driver driving a licensed vehicle Unlicensed operator Driving without valid insurance Refusing to carry a guide dog

• Exceeding the number of passengers on the plate

Review of the Licence by the Licensing Sub-Committee

The licence holder will be invited to a Licensing Sub-Committee meeting. The licence holder will be given reasonable notice of the meeting. However if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take a anger management course, safeguarding or disability awareness training, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

Right of Appeal

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).

Cheltenham Borough Council Supplementary

Relevant to Cheltenham Only

1. Driver Medicals

Cheltenham Borough Council is proposing to amend the driver licensing medical requirement. At present, the policy requires a driver to obtain full medical records from their own GP. We are consulting on including an additional provision that would allow driver to option to obtain medical based on a 'summary of medical records' from a suitably qualified medical practitioner.

The current requirement goes against developing common practice on driver medicals. Based on advice, all of the important medical information required to safely determine a candidate's fitness to drive is easy to review on a good computerised summary of medical records. This summary is easier to access and less time consuming for the driver, and is also less onerous for the surgeries dealing with these requests.

2. Vehicle fitness test pass certificates

The current taxi and private hire licensing policy does not currently prescribe a maximum time limit for valid vehicle fitness test pass certificates. We acknowledge there are times when a vehicle fitness test could be out of sync with licence renewals or other circumstances that might require an additional vehicle fitness test. By setting a maximum time limit for vehicle fitness test pass certificates, the need for additional testing could be avoided without compromising on public safety.

For a vehicle licence renewal, we propose to only accept a vehicle fitness test pass certificate issued a maximum of 8 weeks before the vehicle licence renewal date.

3. Taximeter calibration tests

The council is considering removing the requirement for annual taximeter calibration tests. If approved, the council will require a taximeter calibration test on initial application, for fare changes and at the request of the council for individual vehicles where concerns have been raised about the accuracy of the taximeter calibration.

4. Policy on medical exemptions

The council proposes a formal policy on processing applications for medical exemptions from the duties placed on licence holders under the Equality Act 2010. A draft policy is attached at the end of this supplementary.

Other proposed changes:

- 1. Clarifying in the policy that the council will accept temporary cover notes where an annual certificate was not available at the time of licensing
- 2. Clarifying that the council does not issue reminders for 6 monthly MOTs. These are a condition of the individual vehicle licence and printed on the licence. We seek to further clarify that failure to comply with the 6 month MOT requirement will result in a vehicle licence suspension for a maximum period of 2 months.
- Appendix C, paragraph e add clarification that 5 year age limit is assessed at the point of licensing to clarify that the vehicle must be less than 5 years old on the date when the licensing application is submitted.

4. Additional policy section on Equality Duties of drivers, operators and proprietors - We are proposing to include a new section in the policy on the statutory equality duties placed on licensed drivers, operators and proprietors. The section will reflect the statutory duties in the Equality Act but with reference to local enforcement approach and policies.

5. Strengthening Enforcement

The council will continue to work with all stakeholders in respect of the night time economy in Cheltenham. It shall continue to ensure that people feel safe. The council will take a zero tolerance policy to justified or substantiated complaints involving drivers against women passengers. Due process will be followed in all instances, but inappropriate words and actions will not be tolerated.

The council will take a harsh line with any licensed driver that is found to have not carried out any legal responsibilities in connection with equality legislation, and in particular in carrying disabled people.

The council may carry out test purchase exercises in respect of the following activities:

- Monitoring/ auditing proper use of the taximeter;
- Monitoring/ auditing compliance with duties under the Equality Act 2010.



Medical Exemption Policy

1. Background Information

The Equality Act 2010 means that employers and service providers must make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Cheltenham Borough Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Taxis and Private Hire vehicles are a vital link in the transport chain. It is important that people who use wheelchairs or guide, hearing or other assistance dogs can have confidence that drivers will accept them and their wheelchair or assistance dog and carry them at no extra charge.

The Equality Act 2010, Section 165, places the following duties on drivers of designated wheelchair accessible Taxis and Private Hire Vehicles:

- · To carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat, to carry their wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- · To give the passenger such mobility assistance as is reasonably required

In addition, Sections 168 and 170 places the following duty on drivers of Taxis and Private Hire vehicles;

• To carry the passenger's dog, allowing it to remain with the passenger and not make any additional charge for doing so.

A driver who fails to comply with any of the above is guilty of an offence and may receive a fine if convicted.

2. What is a Medical Exemption?

In some circumstances a driver of a designated Taxi or Private Hire vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, either short or longer term.

Section 166 of the Act allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with the duties.

Sections 169 and 171 of the Act allow licensing authorities to exempt drivers from the duties to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds.

3. How to apply for a Medical Exemption

To apply for a Medical Exemption Certificate, a driver must submit an exemption application form and obtain a doctor's note detailing exactly what duties cannot be undertaken and why.

Upon receipt of the doctor's note, the Licensing Section will provide a temporary exemption certificate which will cover the driver for a period of up to three months. The Licensing Section will also initiate a driver referral to the preferred, authorised Occupational Health provider, the cost of which must be borne by the applicant.

If the doctor's note states that the driver is unfit to carry passengers in wheelchairs and/ or assistance dogs for a specified period of time, a temporary exemption notice will be issued with an expiry date in line with the information provided on the doctor's note. Upon expiry, the Licensing Section will deem drivers fit to undertake all duties unless a second doctor's note is received. Upon receipt of a second doctor's note, the referral process will be initiated as detailed above.

Upon expiry of the temporary exemption certificate, the certificate must be returned to Licensing Section. Failure to do so in a reasonable timeframe might result in the suspension of a driver's licence on the basis of being fit and proper.

When the referral process is initiated, the driver will receive further information from the Occupational Health provider. The licensing section will contact the driver to discuss the outcome of the referral.

- If the driver is declared fit for work, the temporary exemption certificate must be returned to the Licensing Section.
- In the event of a recommendation to make reasonable adjustments, the licensing section will
 consider an extension to the temporary exemption certificate to allow the driver to make
 necessary reasonable adjustments.
- If the driver is declared permanently unfit to carry passengers in wheelchairs and/ or assistance
 dogs an Exemption Certificate will be issued. he exemption may be reviewed every one to five
 years, with reference to expert medical evidence, and each case will be reviewed on its own
 merits.

4. Appeals Process

If the driver does not agree with the decision to refuse the application for a medical exemption, they are able to appeal the decision to the magistrates' court. The driver has 28 days from the date of refusal to appeal.



Gloucestershire Disclosure and Barring Service Manager

I welcome and support this proposal.

Kind regards
Manager
Disclosure and Barring Service
Gloucestershire Constabulary
No 1 Waterwells
Waterwells Drive Quedgeley Gloucester GL2 2AN

Licensing Sub-Committee - Miscellaneous - Wednesday, 7th July, 2021 6.00 pm

Minutes:

The Licensing Team Leader reported on the response to the consultation, outlining the main points and those with particular relevance to Cheltenham. He stated that the same standards would apply across the whole of the county and that as there had not been any feedback on the consultation from the trade, assumed that there were no objections.

Members stated it was an excellent and very thorough policy and good that licensing standards for Hackney Carriage and Private Hire was all being brought into line across Gloucestershire. Members wished to thank Gloucestershire Licensing Officers for their work to make licensing safer in the county and were happy for the policy to be implemented.

Members agreed to:

- 1. Note the revisions to the revised policy as outlined in the report; and
- 2. For their positive comments to be submitted to Cabinet, as lead consultee to the Cabinet Member Customer & Regulatory Services.



Cheltenham Borough Council Cabinet – 14th September 2021 Food Safety Service Plan 2021 – 2022

Accountable member	Councillor Martin Horwood, Cabinet Member Customer and Regulatory Services
Accountable officer	Bernadette Reed – Interim Public & Environmental Health Team Leader
Ward(s) affected	AII
Key/Significant Decision	Yes
Executive summary	The Council is required to produce a Food Safety Service Plan under the Framework Agreement with the Food Standards Agency (FSA). Local Authorities are required to consider and approve the Plan to 'help ensure local transparency and accountability'.
	The Food Safety Service Plan ensures national priorities are delivered locally and linked to corporate and financial planning. It also provides a means of managing performance and providing relevant information to stakeholders.
Recommendations	It is recommended that Cabinet:
	1. Approve the appended service plan for 2021-22.

Financial implications	N/A
	Contact officer: Andrew Taylor, Andrew.taylor@cheltenham.gov.uk , 01242 264115
Legal implications	N/A
	Contact officer: Legal Services, <u>legalservices@onelegal.co.uk</u>
HR implications	N/A
(including learning and organisational development)	Contact officer: Clare Jones, clare.jones@cheltenham.gov.uk , 01242 264364
Key risks	Please refer to the appended risk assessment for full risk assessment. The key risk has already been realised in that an international pandemic has drawn resource from the food safety service and impacted service delivery. The appended service plan describes the risk mitigations currently in place.
	Other risks are related to the consequences that could result if the service is under-resourced for any additional reasons.
	The service has enough capacity to deliver its statutory commitments as outlined in the Food Standards Agency Recovery Plan (with the short term engagement of contractors using food officer salary efficiencies) under the Food Law Framework Agreement. However, there is little resilience if a major foodborne outbreak or investigation, or staff illness was to occur this year.
Corporate and community plan Implications	The Food Service Plan supports the Culture and Community ambitions by working to achieve increased levels of food safety and hygiene in premises; high rated food businesses in the national food hygiene rating scheme (resulting in increased consumer confidence in local businesses); and the control of foodborne diseases – all of which help promote the local economy, as well as protecting the health of the people who live, visit or work in Cheltenham.
	The council has five corporate priorities identified in the Corporate Plan 2019-2023, of which the food safety service supports priorities of:
	Continuing the revitalisation and improvement of our vibrant town centre and public spaces
	2. Achieving a cleaner and greener sustainable environment for residents and visitors
	3. Delivering services to meet the needs of our residents and communities
Environmental and climate change implications	None additional to current situation (e.g. implications of transport to visits, use of paper forms).
Property/Asset Implications	None.

1. Background

- 1.1 The Framework Agreement on Official Feed and Food Controls by Local Authorities (Amendment Five, April 2010) sets out what the FSA formally requires from local authorities with regard to their planning and delivery of food official controls, based on statutory Codes of Practice.
- 1.2 One such requirement is the production, approval and publication of an annual Service Plan.
- **1.3** Service plans are seen to be an important part of the process to ensure national priorities and standards are addressed and delivered locally. Service plans also:
 - focus debate on key delivery issues;
 - provide an essential link with financial planning;
 - set objectives for the future and identify major issues that cross service boundaries; and
 - provide a means of managing performance and making performance comparisons.
- 1.4 The plan follows a standard format provided by the FSA and is required to be submitted to Members for approval. Potential lack of resource or other issues affecting the authority's ability to carry out official controls are emphasised in the service plan, because of the nature of statutory requirements.

2. Reasons for recommendations

2.1 It is a statutory requirement to produce a Food Service Plan, and allows for the efficient planning of resource to deliver official controls as required by the Food Law Code of Practice and to deliver other commitments such as sampling, internal monitoring and business advice as required by the Framework Agreement.

3. Alternative options considered

3.1 This plan relates to the delivery of a statutory function, so no alternative options are available at this time.

4. How this initiative contributes to the corporate plan

4.1 This statutory food service plan is essential to protect the health of people who live, visit and work in Cheltenham, as well as to offer a fair, safe and supportive service to the district's businesses. Please see 'corporate and community plan implications' section above for further details.

5. Consultation and feedback

5.1 A copy of the plan is made available on the Council's website.

6. Performance management –monitoring and review

- 6.1 Documented internal monitoring procedures are required by Regulation (EU) 2017/625 on Official controls and other official activities, the relevant Codes of Practice, and centrally issued guidance.
- **6.2** Quality assurance is provided through the service's consistency and internal monitoring procedures.
- 6.3 KPIs are being reviewed and will include the number of business interventions completed which were due, the number of businesses which are broadly compliant, the number of new high risk

- food businesses which were inspected within 28 days following receipt of registration.
- 6.3 An annual statutory return is also produced through the Local Authority Enforcement Monitoring System (LAEMS) and monitored by the FSA.
- 6.4 The operation of the Food Hygiene Rating Scheme is monitored by the FSA against the Brand Standard. The service has robust monitoring and data procedures relating this.

Report author	Contact officer:					
	Bernadette Reed, <u>bernadette.reed@cheltenham.gov.uk</u> , 07500816810					
Appendices	Risk Assessment					
	2. Food Safety Service Plan 2021-22					
Background information	Food Law Agreement on Official Feed and Food Controls by Local Authorities https://acss.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/frameworkagreementno5.pdf					
	Food Law Code of Practice and Food Law Practice Guidance 2021 https://www.food.gov.uk/about-us/food-and-feed-codes-of-practice					

Risk Assessment Appendix 1

The ri	The risk				iginal risk score npact x likelihood)		Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likeli- hood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If the Council is unable to deliver interventions in food premises as they become due in accordance with the Food Law Code of Practice, then potential public health risks such as food poisoning outbreaks could occur (also damaging business and Council reputation)	Bernadette Reed	01.04.21	4	2	8	A	The service plan is achievable within resource plan outlined in the Food Safety Service Plan and if no other circumstances change. If the situation does change, resource implications will be escalated to the Head of Service and Director.	In place	YH/MR	
2.	If the Council is unable to meet its commitments according to legal requirements and the Framework Agreement, and deliver them according to the Code of Practice and Practice Guidance, then it could be in breach of its statutory duty with potential FSA sanctions and damage to reputation	Bernadette Reed	01.04.21	4	2	8	A	The service plan is achievable within resources detailed if no other circumstances change (a contractor has already been engaged). If the situation changes, resource implications will be escalated to the Head of Service and Director.	In place	YH/MR	
3	Emergencies and unusual situations – if the service suffers a lack of resource due to the ongoing Covid-19 situation, a major emergency or food/infection related incident, then there could be a failure to carry out planned	Bernadette Reed	01.04.21	3	6	18	R	External funding has been obtained for 12 months food safety officer backfill. Resource strategy has been approved by ELT and short term	In place	YH/MR	

Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likeli- hood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
The ris				Original (impact x	likelihoo	od)	Managing					
4	If IDOX Uni-Form does not function as a stable case management system, then risk data relating to any business in Cheltenham cannot be accessed and planned interventions cannot be programmed	Bernadette Reed	01.04.21	2	2	4	A	Reduce risk by: a) reporting all issues to ICT and user group rep b) have now produced paper versions of inspection forms and Legal Notices etc Access report of all due interventions has been saved in case of Uniform failure	In place	SC		•
								core team. Impact of other emergencies eg foodborne are likely to be short-term if risk is realised so can potentially reduce risk with mitigation: further use of agency contract staff to backfill if necessary	In place			
	investigate food complaints/incidents.							completing overdue/due inspections alongside				

Explanatory notes

interventions, or to

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close

contractors are



FOOD SAFETY SERVICE PLAN 2021-2022

1. FOOD SAFETY SERVICE AIMS AND OBJECTIVES

1.1 Background, Aims and objectives

Background

The requirement to have a Service Plan is laid down by the Food Standards Agency (FSA) in its *Framework Agreement on Official Feed and Food Law Controls by Local Authorities, Amendment number 5.* The FSA is an independent monitoring and advisory body that issues guidance to ensure local authorities' delivery of official controls is 'effective, risk-based, proportionate and consistent'.

The Framework Agreement states what the FSA requires from local authorities when planning and delivering food and feed official controls. This Service Plan is Cheltenham Borough Council's plan as to how it will deliver those food controls.

Local authorities are monitored and audited by the FSA through service plans in accordance with the FSA's powers under the Food Standards Act 1999 and the Official Feed and Food Controls Regulations 1999 (as amended).

Aim

The key food safety function of Cheltenham Borough Council is to ensure that the food sold, offered and stored for sale and entering the Borough is wholesome and fit for human consumption. The overarching aim is a sustainable service that protects public health whilst supporting food business industry growth.

Our objectives include:

- The regular control of food premises within the Borough in accordance with the Food Law Code of Practice (FLCoP).
- The investigation of the safety and fitness of food including all complaints about the operation of businesses within the Borough.
- To sample foods within the Borough whilst participating in local, regional and national food sampling programmes.
- To ensure we approve and register all food premises within the Borough as required by legislation.
- To undertake appropriate and proportionate food safety enforcement action within the Borough.
- To support food businesses in all stages of their lifecycle, and in particular to provide new business start-up support.
- To undertake Home and Originating Authority duties within the Borough.
- To provide food safety by way of advice and assistance to food businesses, citizens and visitors of the Borough in a commercially sustainable way.

- To administer and promote the national Food Hygiene Rating Scheme (FHRS).
- To undertake Primary Authority Partnership arrangements.
- To control foodborne infectious diseases through the investigation of notifications.
- To respond appropriately to Food Alerts from The FSA
- To move towards greater commercialisation and modernisation of the service through the delivery of corporate programmes.

1.2 Principles of service delivery

The ethos of the service is to support and advise food businesses in the borough so that they can grow and thrive. There is a high rate of compliance with food law in Cheltenham which is recognised, and a graduated approach to enforcement is exercised when working with non-compliant businesses. Service capacity is prioritised at the high food activities and/or the poorest performing food businesses, with the aim of improving standards across Cheltenham whilst supporting business growth.

2. BACKGROUND

2.1 Profile

Cheltenham is an attractive and vibrant town serving an extensive catchment area in central and eastern Gloucestershire and the South Midlands. It is one of the key retail centres in the South West.

The borough of Cheltenham is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares and has a population of over 115,000.

Cheltenham consists mainly of small to medium sized businesses a large proportion of which are restaurants and cafes. It hosts a farmers market as well as a Continental and Christmas food market. The town offers a wide range of educational and employment opportunities. The town also hosts a year-round programme of festivals and events, and has a strong cultural and sporting profile.

2.2 Organisational Structure

The food safety service is within the Public and Environmental Health team of the Public Protection Department headed by Yvonne Hope, which forms part of the Environment Division under Mike Redman. The Environment Division is part of the Managing Director of Place and Growth's portfolio. The current establishment structure is shown at the end of this plan.

Specialist services such as public analyst and food examiner are provided externally by Public Analyst Scientific Services (PASS), Wolverhampton and The Public Health England Food, Water & Environmental Laboratory, Porton Down, respectively.

2.3 Scope of the Food Service

The Council is not a Unitary Authority and therefore shares its duties under the Food Safety Act with the Trading Standards Department of Gloucestershire County Council. Cheltenham Borough Council aims to provide a full range of services within its remit offering a balanced approach between education and enforcement, in accordance with the council's graduated enforcement policy.

The Borough Council food safety service is provided normally by three appointed and authorised officers in accordance with the requirements of the FSA code of practice. There is one Senior Environmental Health Officer, who is also the lead officer for food safety as determined by the FSA, one Senior Technical Officer and one recently qualified Environmental Health Officer. These officers are also responsible for infectious disease control along with other environmental health functions in all food premises. The officers are also responsible for food safety advice at events and festivals in the district of Cheltenham, and for monitoring planning and licensing consultations as a means of identifying and engaging with new or developing food businesses. The team offers chargeable services and products. They also offer a chargable service for sampling and certification for official certificates for export. The lead Officer is currently registered with DEFRA as the certifying officer.

Also within the scope of the food service are the following functions: sampling (food, water and environmental); primary authority partnerships and the local administration and promotion of the national food hygiene rating scheme.

Since the beginning of the pandemic, the Senior Environmental Health Officer has been redeployed to work at local level on behalf of Health Protection at Gloucestershire County Council. The newly qualified officer has spent 0.5 FTE on covid restrictions and control work which left the Senior Technical Officer to carry out the high risk priority food safety demands as determined by the FSA. From May 2021 the Senior Environmental Health Officer has been employed within the Public and Environmental Health Team leader role on an interim basis following the departure of the team leader. The gap in food safety resource will be addressed to ensure the requirement of the FSA recovery plan are met as detailed below.

2.4 Demands on the Food Safety Service

Table 1: The service delivery point

Address	Hours	Contact details
Cheltenham Borough	Mon, Tue, Thurs	01242 264139 – business
Council	and Fri	support
Municipal Offices	(09.00-17.00)	env.health@cheltenham.gov.uk
Promenade	Wed	ehbusinesssupport@cheltenha
Cheltenham	(09.30- 17.00)	<u>m.gov.uk</u>
GL50 9SA		
	The offices are not currently open to members of the public	Food safety officers have mobile phone numbers available to stakeholders and the public.

There is an out of hours emergency service available which addresses the emergency closure of premises, food product withdrawal and outbreaks of food associated disease.

On 31st March 2021 there were 1025 food businesses registered on the database, compared to 969 at the close of the previous financial year.

The hospitality and catering sector predominates, the majority being small or medium sized enterprises.

Approved Premises

The council has two premises approved under Regulation (EC) No. 853/2004:

- a) Soho Coffee Shops Ltd, approval number UK CT007 EC (meat products). The business is a manufacturer and packer supplying to its own-brand coffee shops.
- b) Cheltenham Catering Supplies, conditional approval number UK CT008 EC The business provides stand-alone cold storage.

Specialist or complex processes

The council does not currently have any such processes in its area.

External factors that may impact on service delivery

Covid-19

The impact of Covid-19 has had a significant impact of the food team in terms of staff redeployment to urgent reactive work and to other wider local public health work. The deferral by the FSA of all planned food hygiene interventions from March 2020 to July 2020 together with the diversion of resources to only high risk food related activities has understandably resulted in a back log of planned interventions. All the required high risk activities as required from the FSA (namely continued enforcement action, carrying out over due enforcement revisits, follow up of food incidents, investigation of any food poisoning cases and investigation of all food and premises complaints) have all been carried out. During the deferral period, Officers also carried out remote surveillance visits for all new business registrations and restarted site visits from July 2020. Remote surveillance visits cannot not be classed as an official control and so all businesses subject to surveillance still require an official control site visit. Site visits continue to focus on the high risk activities as above and our planned intervention programme of Category A and B rated businesses. For the bulk of the back log of business inspections we are implementing a recovery plan developed by the FSA. Food Safety contractors equivalent to 1 FTE have been engaged to carry out planned interventions from July 2021.

2.5 Regulation Policy

Cheltenham Borough Council has adopted and published a corporate enforcement policy which informs all enforcement action undertaken by the Food Safety Service.

The Framework Agreement requires local authorities to take account of the Better Regulation agenda with regard to service delivery and planning. In recent years there have been a number of reviews conducted that have resulted in a change to the nature of regulation. The emphasis being that the regulatory system as a whole should use comprehensive risk assessment to concentrate resources in the areas that need them most. Key principles of the Better Regulation agenda are targeting, proportionality, accountability, consistency and transparency.

In terms of food safety, this means concentrating efforts on those businesses that do not meet the minimum legislative standards, with alternative interventions in those that generally comply.

There is a suite of interventions that focus on outputs and continued improvements in food safety. This allows us to choose the most appropriate and **proportionate** action to drive up levels of compliance. We operate an Alternative Enforcement Strategy which allows us to **target** resource at the highest risk premises through the use of a self-assessment questionnaire. The Service operates a **consistency** framework supported by internal monitoring procedures so that all businesses and individuals receive the same standard of regulation. The Service operates in an open and **transparent** way e.g. through the release of food hygiene intervention reports to consumers upon request. The publication of this Plan demonstrate our accountability.

3 SERVICE DELIVERY

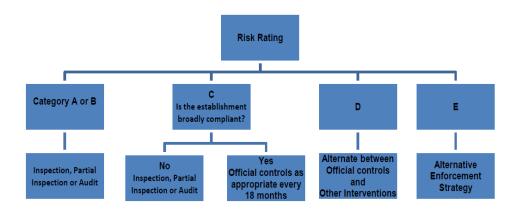
3.1 Interventions at Food Establishments

Intervention Policy

The regulation of food premises is undertaken in accordance with the Food Safety Act 1990 Food Law Code of Practice (FLCoP). All food premises are subject to a detailed assessment based on particular criteria including types of food and method of handling, consumers at risk, level of current compliance in terms of practices, procedures including cleanliness and confidence in management. This numerical calculation is transferred into the categorisation of premises from A to E. Category A premises are inspected a minimum of every 6 months, category B every year, category C every 18 months, category D every two years and category E premises every 3 years. This intervention scheme is under FSA review and a revised model will be effective from Apr 2023.

The Service operates an Intervention Policy setting out how the intervention programme will be delivered. The diagram below depicts the current policy with regard the choice of interventions available per risk category. The recovery plan allows for remote assessment in certain circumstances. Cheltenham BC has decided not to use remote interventions at this stage as we believe we have the capacity for on site visits

Figure 1: Intervention policy schematic



The food safety team aim to inspect all newly registered food businesses within 28 days of registration. Newly registered premises are non-compliant until the first visit when a risk assessment is undertaken. All other non-compliant premises are visited as a priority and always within the due date. Official controls at compliant premises can include interventions such as sampling, alternative enforcement strategies, intelligence and information gathering.

Other visits to food premises may follow a request for advice, complaint or an alleged food poisoning incident.

Premises profile

The premises profile is given in the table below with figures for the previous financial year in brackets as a comparison:

Table 2: Premises profile as of 31st March 2021

	NO. OF PREMISES
PRIMARY PRODUCERS	0(0)
MANUFACTURERS + PACKERS	8(8)
IMPORTERS/EXPORTERS	2(3)
DISTRIBUTORS/TRANSPORTERS	6(6)
RETAILERS	177(173)
RESTAURANTS AND CATERERS	832(779)
TOTAL	1025(969)

Number of interventions programmed for 2021-22

The inspections (official controls) due can be broken down into risk categories as follows:

Table 3: Official controls programmed for 2021-22

Risk category	Number due for intervention FY 2021-22 (including overdue inspections carried forward from 2021	Target
Unrated – i.e. new businesses (projected from last year)	110 plus approx 100 anticipated	100%
Α	0	100%
В	36	100%
С	150	100%
D	261	100%
Е	48	100%
TOTAL NUMBER OF INTERVENTIONS	705	100%

NOTE: Primary production relates to the production of food and animal feed. It means the production, rearing or growing of primary products including harvesting, milking and farmed animal production prior to slaughter. It also includes hunting, fishing and the harvesting of wild products. We do not have any such businesses currently registered with the council hence 0. This can change as new businesses register with us. We did not have A rated premises which were due for an inspection during 21-22 hence the 0. A rated are the high-risk businesses as determined by the scoring criteria in the food law code of practice. This can change following any business inspection and at any point in time.

Resource Strategy

Staff resource strategy was approved by Executive Leadership Team on 5/5/21, which addressed the shortfall in resource required to deliver official controls for the financial year. As a result, the Senior EHO for food safety (currently acting as Interim Team Leader) will be backfilled by 2 food safety contractor (equivalent of 5 days per week

for initially a 3 month period with the option of extending depending on the recovery plan and the Target Operating Model (TOM)

This strategy will ensure the council is on target to complete all due inspections by 31st March 2022 as detailed in the plan. It will also build in some resilience for the team as we move through phase 2 of the recovery plan.

Targeted intervention work including projects

New allergen labelling legislation comes into force on 1st Oct 2021 regarding food which is pre packed for direct sale. The enforcement responsibility lies with Trading Standards our partnership organization on matters of food standards with the expectation that District Councils monitor the compliance during food premises interventions. We will promote the new requirements locally and refer any non-compliances to Trading Standards. We will also continue to support covid-compliance and economic recovery in food businesses.

Priorities relating to locally or nationally driven outcomes

Locally driven outcomes for this year relate to the continued response to the Covid-19 pandemic, and economic recovery.

Additionally we will maintain the service level agreement regarding the operation of the National Food Hygiene Rating Scheme (FHRS).

3.2 Food Complaints

Food complaints are investigated in accordance with the FSA Code of Practice. The number of food complaints investigated by the food safety team in 2020-21 was 36. Previous years' data is shown below.

Year	No. of food complaint investigations
2019-20	37
2018-19	28
2017-18	32
2016-17	20

In 2020-21 the service investigated 49 complaints relating to the hygiene of premises. Previous year's data is shown below.

Year	No. of hygiene of food premises complaint investigations
2019-20	114
2018-19	126
2017-18	98
2016-17	106

Performance target: A target has not been set for the resolution of these complaints as that depends upon the most appropriate course of enforcement action for each complaint on a case by case basis. The target is an initial response within 3 days.

3.3 Primary Authority Partnership

The Council consults at an appropriate level with the Primary Authority for any food business, in accordance with the principles laid down in The Food Safety Act 1990 Code of Practice and the Business energy and industrial strategy (BEIS) guidance.

The Council does not currently act as a Primary Authority.

3.4 Advice to Businesses

The food safety service provides assistance to local food businesses when requested to help them comply with the legislation and to encourage the use of best practice. This is achieved through a range of activities including:

- Advice given during inspections and other visits to premises
- Chargeable advice and consultancy; FHRS revisits
- Responding to service requests and enquiries
- Attendance at Safety Advisory Groups (SAG) and Event Consultative Groups (ECG) to advise on food safety at public and community events
- Advice given in response to planning and licensing applications.

3.5 Food Sampling

The food team participate in the Public Health England (PHE) cross regional and national sampling studies.

PHE put sampling studies on hold during 2020-21. Sampling was carried out for the purposes of export. High risk food not of animal origin (HRFNOAO) requires official sampling and certifying as complying with relevant legislation for the product and the originating country. There is a charge to businesses for this service. 1 request was received during 2020-21 and 2 complaint samples sent for analysis.

Sampling Policy

The Authority's sampling policy states the following reasons for sampling:

- Investigation of food contamination, food poisoning and complaints
- Imported food responsibilities.
- Primary Authority/Originating Authority responsibilities
- Food sampling defined by statute e.g. shellfish
- Use of sampling as part of an Official Control
- Participation in nationally co-ordinated sampling programmes
- Participation in regional sampling programmes
- Sampling related to local products/events/initiatives relevant to Cheltenham Borough Council
- Surveillance/Intelligence sampling to identify foods that could pose a hazard
- Sampling on request of a food business e.g. new product and/or process

- Informal sampling to assist with giving advice to businesses
- Resampling from previously unsatisfactory results

Analysis/examination of Samples

All samples for analysis, taken under section 29 of the Food Safety Act 1990 in accordance with the Food Safety (Sampling and Qualifications) Regulations 2013 and with the requirements of this Code, will be submitted to the appointed Public Analyst at a laboratory accredited for the purposes of analysis, and which appears on the list of official food control laboratories. Cheltenham currently has an agreement with the Public Analyst Scientific Services in Wolverhampton.

All samples for examination, taken in accordance with regulation 14 of the Food Safety and Hygiene (England) Regulations 2013 and the requirements of this Code, will be submitted to the Food Examiner at a laboratory accredited for the purposes of examination, and which appears on the list of official food control laboratories. Cheltenham BC currently has an agreement with Food, Water and Environmental Microbiology laboratory Porton, Wiltshire.

Other samples

Other samples such as hygiene check swabs could be used within food premises to check on the efficiency of cleaning and disinfection. These fall outside the sampling programme and the number and type will be determined according to local needs.

2021-22 Sampling Surveys

The planned sampling projects identified by Public Health England were put on hold. We will take part in any new programmes as they are released including the regional surveys from October 2021 onwards.

3.6 Control & Investigation of Outbreaks & Food Related Infectious Disease

The measures to be taken to control the spread of infectious diseases are contained in various acts of Parliament and their associated Regulations. This legislation places a duty on local authorities to control the spread of food poisoning and food and water borne diseases.

Annual notifications vary from year to year

The policy in respect of this service is to:

- To administer and implement our statutory responsibilities relating to the control of infectious disease.
- Investigate all notifications of food poisoning cases and likely sources of infection whether confirmed or not at the earliest opportunity.
- Where a source is identified take appropriate action to ensure risk of spreading is controlled.
- Protect the well-being of individuals at risk by taking action to contain the spread of infection and provide advice and information regarding personal hygiene, food handling and control of infection.
- Exclude food handlers and people working with high-risk groups from work in consultation with the Consultant for Communicable Disease Control (CCDC).

A Countywide "Outbreak Control Plan" is operated including standardised food poisoning investigation questionnaires together with standard operating procedures for the investigation of single cases of infectious disease.

Performance target: to action 100% of infectious disease notifications within two working days unless the potential risk to public health requires a same day response (e.g. *E Coli 0157*)

Table 6: Number of Infectious Disease Notifications by year

Financial year	Number of	Infectious	Performance	(actioned
	Disease Notific	ations	within two work	ing days)
2020-21	115		100%	
2018-19	213		100%	
2017-18	178		100%	

3.7 Food Safety Incidents

The Food Standards Agency operates a system to alert the public and food authorities to serious problems concerning food that does not meet food safety requirements.

Food alerts vary in significance and require an appropriate response. Some are of high priority and require immediate action. This may involve contacting and/or visiting food premises and taking immediate action under powers contained in Food Legislation. Others are for information only.

All alerts are received directly from the Food Standards Agency via a secure dedicated computer network system. The Public & Environmental Health Team Leader will instigate the necessary response and provide the necessary out of hours cover for this service. Approximately 100 FSA messages are received annually which used to be manually distributed to food safety officers by the team leader, but this is now coordinated through an information platform 'Smarter Comms'.

Where the Council becomes aware of a serious localised incident or a wider food safety problem, it will notify the Food Standards Agency in accordance with the Code of Practice.

3.8 Liaison with Other Organisations

The Council is committed to ensuring that the enforcement approach it adopts is consistent with other enforcing authorities. This takes place through regular meetings and attendance by the manager at the Gloucestershire Food Safety Group. This group comprises of peer representatives of each of the District and Borough Councils in the County, Publica (shared regulatory services); the County Council Trading Standards Service, the Food Standards Agency's Regional Representative and PHE Laboratory Service.

3.9 Food Safety promotional work and other non-official control interventions

The service will participate in FSA promotional work or covid-related non-official control interventions in 2021-22 to support pandemic response and local recovery. It will work with the Business Improvement District, Marketing Cheltenham and other services to that effect, within capacity.

The service has an active Twitter account which it uses to promote local 5 rated food businesses and will continue to utilise the council's Communications team with regard food safety or FSA press campaigns e.g. Food Safety Week.

4 RESOURCES

4.1 Financial Allocation

The Food Safety Service budget for 2021-22 is £207,200. This budget includes staffing, travel, subsistence, I.T. development, legal action and office overheads necessary as part of the food safety enforcement function. Recharges for I.T. support, Human Resources, accountancy, audit, insurances, communications, and asset management are also included.

There is not a separate sampling budget.

4.2 Staffing Allocation

There is one full time Senior Environmental Health Officer (Vacant as employed on a temporary basis as team leader) and one full time Senior Technical Officer and a recently qualified EHO.

All officers have completed a competency framework assessed by the Lead Officer and are Authorised Officers according to their competency and experience as required by the Competency Framework. The 3 FTEs are dedicated to the delivery of the food safety service. The food safety service has contributed its 0.6 FTE Business Support Team Officer to a shared business support team as part of the agile working project. The service has been assured of greater resilience and cross-training in this shared team. who act as a specific point of customer contact and register commercial premises etc.

The food safety service is managed by Bernadette Reed (Interim Team Leader). Yvonne Hope is the Head Public Protection which contains food safety amongst other functions.

Contractors engaged by the service are also authorised and assessed according to the competency framework.

5 QUALITY ASSESSMENT

5.1 Quality assessment and internal monitoring

All officers use standard inspection/audit forms and have undergone consistency training.

The Uni-Form database (which also forms the Public Register of food premises) is audited on a fortnightly basis for data accuracy before upload to the Food Hygiene Rating Scheme portal.

Data checking is also undertaken when quarterly inspection lists are produced.

Officers have a monthly consistency check with each other; internal monitoring checks are carried out in 121s; and accompanied visits occur quarterly. Feedback is given in team meetings. Liaison group training is arranged where possible and the authority participates in inter-authority audits when they are planned.

6 REVIEW

6.1 Review against the Service Plan

6.11 Progress

Last year's progress in food safety includes:

Due to the pandemic a full data return was not required by the FSA. However, as detailed previously all required high risk activities were conducted as we navigated through the phases of the pandemic.

6.1.2 Performance monitoring

a) Statutory Performance Monitoring

Under normal circumstances, each local authority must submit a statutory return to the FSA on their official food controls each year through the Local Authority Enforcement Monitoring System. Monitoring tables can be viewed on the FSA website: http://www.food.gov.uk/enforcement/monitoring/laems/mondatabyyear This year there is no intention for the returns to be published.

b) 'Broadly Compliant' premises and the National Food Hygiene Rating Scheme

Cheltenham Borough Council participates in the national Food Hygiene Rating Scheme, which is a public interface to food hygiene standards in premises that sell food direct to the final consumer.

Each food business in the scheme is given a food hygiene rating ranging between 0 (urgent improvement necessary) and 5 (very good) after it has been inspected, and the level of compliance with food safety and hygiene legislation is reflected in the rating. A rating of 3 and above indicates the premises is broadly compliant, for those businesses not excluded or exempt from having a rating. The website can be viewed at www.ratings.food.gov.uk

The measure of how many food premises in the district are 'broadly compliant' with food safety legislation has been kept as local management performance indicator since it was discontinued as a national one.

For 2020-21, the target to end the year was 97%

6.2 Identification of any variation from the Service Plan

The Service did not significantly vary from the previous year plan.

This Plan has been updated and published later than usual to allow for service continuity planning due to the impact of Covid-19. There still could be variance from this service plan in 2021-22 if there is a significant change in the public health climate,

or if a resource gap occurs due to a food-related incident (for example an infectious foodborne disease outbreak or an in-depth investigation).

6.3 Areas of improvement

Areas of improvement still include: modernisation/digitalization (e.g. Online forms, automated data collection, handheld devices for data entry in the field) and enhanced business/technical support for the service. For example, work is being carried out to move some of the technical data entry and customer focused tasks to business support or technical function. This would release food safety officer capacity to better deliver its food safety statutory functions, e.g. inspections; support business economic development; undertake additional food sampling and/or explore commercial opportunities.

Head of Public Protection

Interim Team Leader Public and Environmental Health (and Lead Officer for Food)

Senior Environmental Health

Officers : 1 x Food Safety (interim vacancy)

: 1 x H&S : 1 x EP

 $\begin{array}{lll} \text{Contaminated Land Officer} & : x \ 0.3 \ \text{Vacant post} \\ \text{Senior Technical Officer} & : x \ 1 \ \text{Food Safety} \\ \text{Environmental Health Officer} & : x \ 1 \ \text{Food Safety} \\ \end{array}$

: x 2 EP (1 vacant post)

ASB lead officer : x 1 FTE

Solace (ASB) team leader : x 0.5 FTE shared post

Technical Officers : x 1.6 FTE

Neighbourhood Supervisor : x 1 FTE

Neighbourhood Officers : x 4 FTE (I post currently in

recruitment

Licensing Team Leader

Committee: Cabinet

Agenda Item 8

Date: 14th September 2021

Responsible officer: Bernadette Reed

Briefing Note: Health & Safety Service annual service plan update

To: All Councillors and Executive Leadership Team

1. Background

On 14th July 2015, Cabinet approved that an annual Health and Safety Service performance and work plan refresh to be communicated to Members and Senior Leadership Team via a Briefing Note each year. This briefing note sets out performance for the year in review and provides a plan for proactive work for the year ahead.

2. Service planning

The Health and Safety (H&S) service is delivered in accordance with recently reviewed Advice/Guidance to Local Authorities on Targeting Interventions. This guidance gives national priorities for both proactive and reactive intervention and must be considered alongside national guidance that local authorities must reduce the number of proactive inspections and justify why they took place. As a result, the emphasis is much more on topic-based inspections according to risk and at only visiting premises when there is a genuine reason to do so. As part of central government's red tape challenge, regulators must comply with a National Code for enforcement which is a risk based approach for targeting health and safety interventions and recognises the respective roles of business and the regulator in the management of risk. The Regulators' Code is available from the following link:

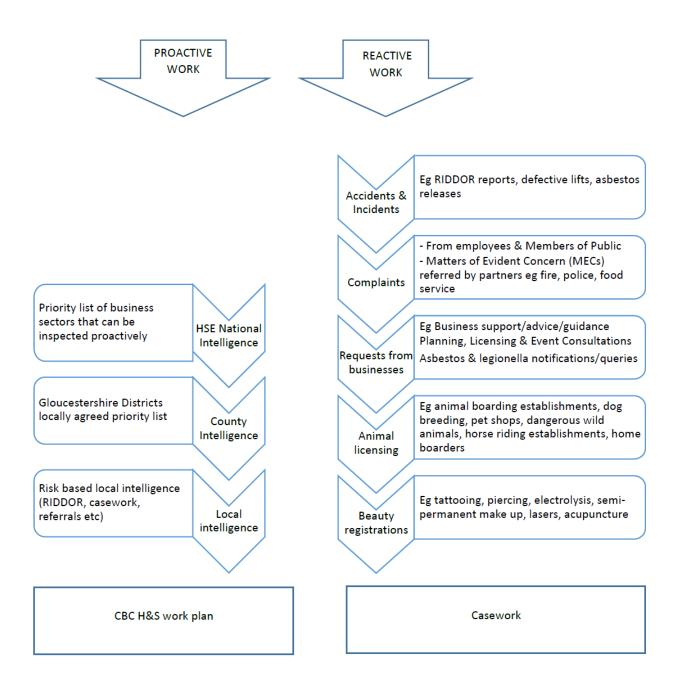
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

The Health & Safety Executive (HSE) produces an annual list of higher risk activities and sectors suitable for targeting proactive inspection by local authorities. H&S services are only permitted to proactively inspect outside of the list if there is sufficient local intelligence to warrant intervention, and the relevant guidance is followed (ie LAC 67/2 and Supplementary Guidance and the Regulators' Code). https://www.hse.gov.uk/lau/lacs/67-2.htm

Cheltenham's profile of local authority enforced workplaces predominantly comprises the hospitality, catering and retail sectors. This means the opportunity for proactive inspection in HSE priority areas is very limited. The HSE allows for consideration of local intelligence when planning proactive inspections. In Gloucestershire this is delivered through the service managers' County Health and Safety Technical Liaison Group which is attended by the Health and Safety Executives enforcement liaison officer and by agreement of local priorities where possible.

The County Group discusses the district level delivery of local priorities linked to national and local intelligence but no longer produces a joint workplan. Each district has its own workplan and maintains the justification for each intervention that it carries out.

The following schematic depicts how proactive and reactive workstreams are formed:



CBC's work plan is a suggested inspection plan drawn from the HSE national priority list and, in compliance with statutory guidance for regulators.

Indemnification

Section 26 of the Health and Safety at Work etc. Act 1974 allows local authorities to indemnify inspectors appointed under that Act under specified circumstances. It is the policy of this authority to indemnify inspectors appointed under that Act against the whole of any damages and costs or expenses which may be involved, if the authority is satisfied that the inspector honestly believed that the act complained of was within their powers and that their duty as an inspector entitled them to do it, providing the inspector was not wilfully acting against instructions.

Reviews

The work plan will be reviewed regularly in response to intelligence gathered. These are some suggested scenarios which may result in the plan being amended (eg projects extended, delayed or deferred):

- If an initial feasibility exercise does not justify the proposed intervention
- If the first proactive inspections do not evidence the need for further interventions
- If initial proactive inspections require more intensive regulatory support (and/or enforcement) due to risks identified
- If capacity in the team is affected by complex or major investigations or legal work, or by officer sickness or corporate priorities
- If the service focuses more extensively on developing commercial interests eg Primary Authority Partnerships, chargeable expert advice, training courses

Interventions

Interventions both proactive and reactive are undertaken by the 1 FTE Senior Environmental Health Officer with support from a Technical Officer. 4 Other officers within Public Protection are authorised under the Health and Safety at Work etc Act 1974 and able to undertake both reactive and proactive work if and when required. Authorised officers in the food team routinely report any matters of evident concern to the Senior EHO for necessary action. The priority in catering has focused on gas safety but also the 'working safely requirements' for reducing the transmission risk of Covid 19. As covid restrictions are lifted health and safety legislation is the recourse to unsafe working practices including the transmission risks of Covid 19. Other reactive work includes: investigating accidents and dangerous incidents; service complaints against the beauty sector (eg tattooing, acupuncture, semi-permanent make up, body piercing, electrolysis) and the animal licensing sector (eg dangerous wild animals, kennels, catteries home boarders, pet shops, zoos). The Senior EHO was redeployed as an authorised officer for the Covid restriction regulations and other associated public health regulations during the pandemic and this continued from March 2020 until the present time. The SEHO also attends Safety advisory groups (SAG) and acts as a consultee for the events consultative groups (ECG) to ensure all event organisers give due regard to their health and safety responsibilities.

3. Annual performance review

a) Statutory reporting to Health & Safety Executive (HSE) through LAE1 return

The service submits an annual statutory return to the HSE which reports against proactive and reactive intervention categories such as the numbers of planned interventions, revisits, accident investigation site visits, requested visits and enforcement action.

Covid 19

Due the pandemic the HSE board agreed to suspend the requirement for Local Authorities to provide a LAE1 data return for 2020/21 but will recommence and be required in April 2022.

Prosecutions are collated separately by the HSE so are not included in the 'enforcement' part of the LAE1. No prosecutions were instigated during 2021 nor are pending.

4. Resources and Risks

The Health and Safety function is delivered within the Public & Environmental Health Service. There is one Senior Environmental Health Officer (FTE) and one Technical Officer (0.8 FTE) who deliver health and safety regulation. The Technical Officer is currently undergoing professional training to become a fully qualified EHO which involves attendance at University for a varying amount of time each week. They also carry out animal licensing function and licenses issued under miscellaneous provisions. 4 Other members of staff are authorised for regulatory health and safety and would assist as necessary eg in the event of a major injury report.

There are no key risks specific to the delivery of the health and safety work plan that need to be highlighted to Members. Risks to service delivery will be regularly reviewed and added to the divisional risk register as appropriate. The most likely emerging risks will be dictated by the future direction of Covid 19.

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Agenda Item 10

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A $Page\ 75$ of the Local Government Act 1972.

Document is Restricted

