

**Cheltenham Borough Council**  
**Chief Executive Officer – 9 November 2020**  
**Urgent Licensing Policy Changes**

<b>Accountable member</b>	<b>Cabinet Member for Development &amp; Safety, Councillor Andrew McKinlay</b>
<b>Accountable officer</b>	<b>Managing Director for Place &amp; Economic Development, Tim Atkins</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key/Significant Decision</b>	<b>Yes</b>
<b>Executive summary</b>	This report sets out temporary changes to the current licensing policy in order to ensure continuity in service delivery during the current COVID- 19 emergency and the second national lockdown announced by the Prime Minister on 31 October 2020.
<b>Recommendations</b>	<p><b>The Chief Executive Officer is recommended to:</b></p> <ol style="list-style-type: none"> <li><b>1. Approve the urgent changes outlined at paragraph 2.1; and</b></li> <li><b>2. Approve that these temporary changes initially apply between Thursday 5 November and Wednesday 2 December or if the national lockdown is extend beyond 2 December 2020 until such time that the national lockdown ends..</b></li> </ol>

<b>Financial implications</b>	<b>Contact officer: Andrew Knott, Andrew.knott@publicagroup.uk, 01242 264121</b>
<b>Legal implications</b>	<p><b>As outlined in the report</b></p> <p><b>Contact officer: One Legal – <a href="mailto:legal.services@tewkesbury.gov.uk">legal.services@tewkesbury.gov.uk</a></b></p>
<b>HR implications (including learning and organisational development)</b>	<p>There are no direct HR implications arising from this report.</p> <p><b>Contact officer: Clare Jones, clare.jones@publicagroup.uk</b></p>
<b>Key risks</b>	<b>As identified in Appendix 1</b>
<b>Corporate and community plan Implications</b>	None

<b>Environmental and climate change implications</b>	None
<b>Property/Asset Implications</b>	None <b>Contact officer:</b> <a href="mailto:Dominic.Stead@cheltenham.gov.uk">Dominic.Stead@cheltenham.gov.uk</a>

## 1. Background

- 1.1 In April 2020 the Chief Executive Officer approved temporary relaxations of certain licensing policy requirements to ensure continuity in service delivery during the current COVID- 19 emergency and in advance of awaited emergency Government legislation.
- 1.2 On Saturday 31 October 2020, the Prime Minister announced a second national lockdown for England. The consequence of this is that licence holders might find it difficult to comply with certain licensing policy requirements as outlines in the table below (2.1).
- 1.3 This report seeks an urgent decision by the Chief Executive Officer to implement the temporary policy changes outlined in the table below for an initial period of Thursday 5 November until Wednesday 2 December.
- 1.4 In the event of the national lockdown being extended beyond the initial period, the temporary measures will continue to cover the period of an extended national lockdown. The Chair of the Licensing Committee and the Cabinet Member for Development & Safety will be kept informed of any extension of the temporary measures.
- 1.5 For the avoidance of doubt, this report is not seeking to delegate additional or new decision making powers to officers, because the authority is now set up to facilitate remote committee hearings. Applications that would normally have been referred to the licensing committee for determination will continue to be dealt with in this manner, notwithstanding the recommendations of this report.
- 1.6 In practice, a licence holder who cannot comply with licensing policy requirements will be subject to a refusal, suspension or revocation by officers. The effect of the recommendations as set out in this report is to provide a temporary relaxation of requirements where the authority has the discretion to do so in accordance with the table below.
- 1.7 Additional measures are in place to ensure public safety is not comprised through the proposed relaxation as outlined in the table below.

## 2. Licensing policy matters

- 2.1 Below is a list of urgent licensing policy changes to be implemented.

Policy matter	Current policy position	Temp. policy amendment(s)
<p><b>Enhanced Licensed vehicle MOTs</b></p> <p>Explanation: The authority requires an enhanced fitness test for licensed vehicles undertaken by two approved testing stations.</p> <p>In the event that the testing stations become subject to closure as a result of the COVID- 19 emergency or closure Regulations, a temporary relaxation is sought to temporary suspend the enhanced element of the test. This will allow licensed vehicles to go elsewhere to obtain a basic MOT until such a time as the approved testing stations</p>	<p>“Submit an application form along with the following documents:</p> <ul style="list-style-type: none"><li>• Vehicle fitness test pass certificate;</li><li>• MOT pass certificate...”</li></ul>	<p>Include additional provision: “Where a vehicle fitness test pass certificate cannot be obtained, the licence holder can temporarily rely on a MOT pass certificate until such a time as a vehicle fitness test pass certificate can be obtained.”</p>

become operational again.		
<b>Testing of Older Vehicles</b> Explanation: As outlined above.	“Vehicles over 8 years of age will be subject to 6 monthly fitness inspections.”	Include additional provision: “Where a vehicle fitness test pass certificate cannot be obtained, the licence holder can temporarily rely on a MOT pass certificate until such a time as a vehicle fitness test pass certificate can be obtained.”
<b>Medical assessment for licensed drivers and applicants</b> Explanation: GP surgeries and other suppliers are prioritising urgent services. We have had reports of licence holders not being able to book a medical assessment. Safeguards <ol style="list-style-type: none"> <li>1. Drivers with pre-existing medical conditions will not be able to self-certify</li> <li>2. Exemptions in relation to medical assessments will be determined on a case to case basis and will not apply as a blanket exemption</li> </ol>	“Submit an approved medical questionnaire completed by an appropriate medical practitioner...”	Replace with: “Where a licence holder is unable, despite reasonable efforts, to obtain a medical assessment through a qualified medical practitioner, the licence holder should complete a medical self-declaration form approved by the authority until such a time as the licence holder is able to obtain a full medical report from a qualified medical practitioner.”
<b>Three Strikes Policy</b> Explanation: With the closure of the Municipal Offices and the need for staff to work away from the Municipal offices, it is not possible for vehicle proprietors to return expired plates. Safeguards are in place to ensure tracking of expired plates will not be missed when normal service resumes.	<b>Applicable infractions – drivers / vehicle proprietors</b> <ul style="list-style-type: none"> <li>• “Failing to return licence plate / badge (following expiry, suspension or revocation)”</li> </ul>	Temporarily suspend sanction.

### 3. Non-Executive Functions

3.1 Table 4, Part 3D of the Council’s Constitution –Responsibility for Functions-makes provision for the Chief Executive to take an urgent decision in respect of a nonexecutive function, including a Significant Decision, in a situation where there is not sufficient time for a report to be considered by Council or Appropriate Committee unless it is a decision that in law can only be made by Council. Wherever possible this shall be done in consultation with the Mayor or Appropriate Committee Chair.

### 4. Alternative options considered

4.1 The authority can opt not to implement these changes but this will have a significant impact on licence holder’s ability to continue to trade during the difficult time.

### 5. How this initiative contributes to the corporate plan

5.1 Not applicable.

## 6. Consultation and feedback

6.1 Consultation has been undertaken with One Legal, HR & Finance Business Partners, Director of Environment and Cabinet Member for Development & Safety.

## 7. Performance management –monitoring and review

7.1 A three month review period is proposed in this report.

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<b>Appendices</b>	1. Risk Assessment
<b>Background information</b>	1. Licensing policy, guidance and conditions for private hire and taxis operating within the borough of Cheltenham

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the authority does not adopt these urgent measures there is a significant risk that many affected licence holders will be severely impacted as they will not have authorisations to continue to work.	Director of Environment	April 2020	3	3	9	Reduce	Approve recommendations		Managing Director for Place & Economic Development	No
	If the authority does not adopt these urgent measures there will be an increased risk of unlawful activity as the authority's ability to proactively enforce and monitor expired licences is diminished.	Director of Environment	April 2020	3	2	6	Reduce	Approve recommendations		Managing Director for Place & Economic Development	No
	If the authority does not adopt these urgent measures the authority will be unable to effectively discharge its licensing function in the interests of public safety.	Director of Environment	April 2020	3	2	6	Reduce	Approve recommendations		Managing Director for Place & Economic Development	No
<b>Explanatory notes</b>											
<b>Impact</b> – 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)											
<b>Likelihood</b> – 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