

## REPORT TO LICENSING SUB-COMMITTEE – 24 APRIL 2020

### USE OF DELEGATED POWERS BY CHIEF OFFICER BY REASON OF SPECIAL URGENCY

#### 1 Reason for Report / Summary

- 1.1 This report is to inform the Sub-Committee of the use of delegated powers by the Head of Legal and Governance by reason of special urgency, in respect of vehicle testing and the duration of licences related to taxis and private hire cars within Aberdeenshire, in order to protect staff and members of the public from the potential spread of Covid-19.

#### 2 Recommendations

**The Sub-Committee is recommended to:**

- 2.1 Acknowledge the use by the Head of Legal and Governance of delegated powers, as fully provided for in Appendix 1 of this report, in order to extend taxi and private hire vehicle licences from 1 year to 18 months in duration, and to relax the requirement for 6 monthly testing, so as to require one test only within the 18 month duration of the licence, in order to protect staff and members of the public from the potential spread of Covid-19.**

#### 3 Purpose and Decision-Making Route

- 3.1 The Civic Government (Scotland) Act 1982 (“the Act”), section 11, requires “holders of taxi or private hire car licences to present their vehicle for inspection and testing to the authority within such period and at such place as they may by notice reasonably require”. Vehicle licences in Aberdeenshire (referred to for simplicity, but meaning both taxi and private hire vehicles throughout this report) are issued for a period of only one year and are tested twice during the life of the licence, once at grant, and once six months later. This is to ensure that the vehicles are suitable and safe to be used for the conveyance of the public.
- 3.2 This matter has not been before the Sub-Committee previously.

#### 4 Discussion

- 4.1 Normally, any decision to change vehicle testing requirements, or the duration of vehicle licences, would be a matter for the Sub-Committee to determine. However, due to the Covid-19 pandemic, national guidance and legislation has been changing frequently, and the Head of Legal and Governance has exercised her use of delegated powers by reason of special urgency to ensure appropriate measures were put into place by the licensing authority as quickly as possible, in compliance with UK and Scottish Government Guidance in response to the Covid-19 pandemic.

4.2 Further detail as to the context and the reasons for the use of urgency powers by the Head of Legal and Governance is contained within the form requesting use of the powers, which forms Appendix 1.

## 5 Council Priorities, Implications and Risk

5.1 This report helps deliver Council Priority 10 - Having the right people, in the right place, doing the right thing, at the right time.

5.2 This report ensures that the licensing authority is complying with the guidance issued by the UK and Scottish Governments in relation to the Covid-19 pandemic.

5.3 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed.

Subject	Yes	No	N/A
Financial	X		
Staffing		X	
Equalities			X
Fairer Scotland Duty	X		
Town Centre First			X
Sustainability			X
Children and Young People's Rights and Wellbeing			X

5.4 An equality impact assessment is not required because this report is principally to note the use by the Delegated Officer of special urgency powers and there will be no differential impact, as a result of the report's recommendations, on people with protected characteristics. The equality/Fairer Scotland Duty implications are as detailed in Section 4 of Appendix 1.

5.5 The financial implications are as detailed in Section 4 of Appendix 1.

5.6 The following Risks have been identified as relevant to this matter on a Corporate Level:

- ACORP009 – Operational Risk and
  - ACORP010 - Environmental Challenges,
- As outlined in the [Corporate Risk Register](#).

5.7 The following Risks have been identified as relevant to this matter on a Strategic Level:

- BSSR005 – A Workforce fit for the future
- As outlined in the [Directorate Risk Registers](#).

## **6 Scheme of Governance**

- 6.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.
- 6.2 The Sub-Committee is able to consider and take a decision on this item in terms of Section C – Business Services: 1 – Committee Functions: 1.1(a) of the List of Committee Powers in Part 2A of the Scheme of Governance, which enables the Committee to decide on all policy issues and resource matters relating to the Civic Government (Scotland) Act 1982 with implications across area boundaries. The Committee determined that the licensing function should be delegated to the Licensing Sub-Committee.
- 6.3 Section B1, B2 and B3 of the Specific Delegations to Officers, as set out in Part 2B of the List of Officer Powers in the Scheme of Governance, apply to this report.
- 6.4 Section B1 authorises the Delegated Officer to take a decision on any matter which, in their opinion requires to be determined by Full Council, Committee or Sub-Committee, but, by reason of special urgency, it is impractical to convene a meeting of the Full Council, Committee or Sub-Committee.
- 6.5 Section B2 provides that any decision shall be taken by the Delegated Officer after consulting with the Chief Executive and Chair and Vice-Chair and main opposition group spokesperson of this Committee. However, in this case, given the Chair of the Sub-Committee was indisposed, and there being no Vice-Chair, the decision was taken by the Head of Legal and Governance following consultation with all members of the Sub-Committee.
- 6.6 Section B3 of the List of Officer Powers in the Scheme of Governance provides that any decision taken by a Delegated Officer using this delegation must be reported to the next meeting of the appropriate Committee, hence the timing of this report.

**Ritchie Johnson**  
**Director Business Services**

Report prepared by Fiona M. Stewart, Senior Solicitor (Democratic Services)  
Date 8 April 2020

### **List of Appendices**

**Appendix 1 - Special Urgency Form**

APPENDIX 1

**SPECIAL URGENCY - USE OF SPECIFIC DELEGATIONS TO CHIEF OFFICERS IN SECTION B**

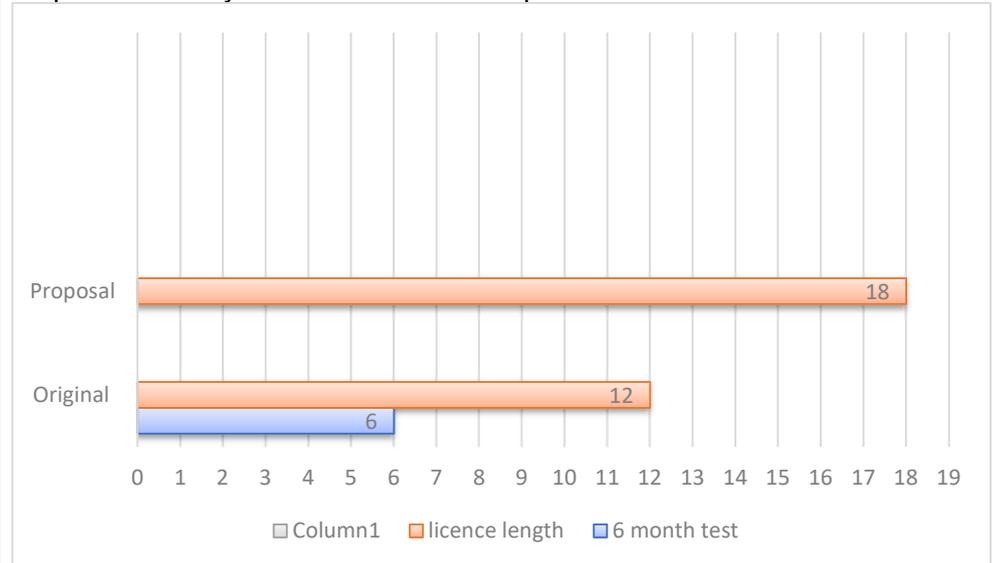
	<p>This form records and confirms approval of the use of the delegation to the Specified Chief Officers (called the Delegated Officer) in <a href="#">Section B of Part 2B of the Scheme of Governance</a>.</p> <p>The Delegated Officer can make a decision instead of Full Council, Committee or Sub-Committee</p>
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<b>Full Council/Committee with delegation</b>	Business Services Licensing Sub-Committee		
<b>Delegated Officer</b>	Karen Wiles, Head of Legal and Governance		
<b>Requesting Officer</b>	Name: Lauren Cowie	<b>Date prepared</b>	<b>25<sup>th</sup> March 2020</b>
	Service: Legal and Governance		
	Job Title: Principal Solicitor (Governance)		

**1. Recommendation**

<p>Description of the matter that requires use of special urgency delegation and how it has arisen</p>	<p><b>General information to enable consideration of recommendations</b></p> <p>The Civic Government (Scotland) Act 1982 (“the Act”), section 11, requires “holders of taxi or private hire car licences to present their vehicle for inspection and testing to the authority within such period and at such place as they may by notice reasonably require”. Vehicle licences in Aberdeenshire, (referred to for simplicity but meaning both taxi and private hire vehicles throughout this report) are issued for a period of only one year and are tested twice during the life of their licence. Once at grant, and once six months later. This is to ensure that the vehicles are suitable and safe to be used for the conveyance of the public.</p> <p><b>Recommendation 1</b></p> <p>The decision to grant for one year was made back in 1996 and continued the practice of the former District Councils Council to try to ensure that vehicles are as safe as possible through yearly MOT’s and six monthly testing. The maximum period permitted in statute is three years. The UK Government through DVSA have on the 25<sup>th</sup> March 2020, announced that all current MOT’s for cars will be extended for a period of six months, for the next year. The recommendation is to consider and approve a variation of all vehicle licences granted in the year to 30<sup>th</sup> March 2020 to grant an additional six months to the duration of the licence, in terms of para 10 of Schedule 1 of the Act, so that they are 18 month licences from date of grant so that they coincide with the length of an MOT. Fleet services will then have a reduced demand for their service in the next six months which will enable them to follow guidelines on social distancing from members of</p>
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the public and enable them to focus on other demands such as essential council vehicles for workers providing essential services in the response to the Covid-19 pandemic. This also ensures simpler administration of licences and ensures that the length of the MOT is the same length as the licence. This ensures that when normal operations resume, renewals will be permitted only once the vehicle has passed an MOT.



The bar chart above illustrates that the original licence is 12 months long and has a test point at the start, at 6 months and on renewal. The proposal would be that the length of time is 18 months, just with a test at the start and on renewal.

Any variation to a licence imposed by the Council is subject to a 7 day notification period to affected licences. This will be done online and will attempt to contact as many licence holders as possible to let them know that they can let us know if they have any concerns with this proposal. The Licensing Team are currently all working from home in line with national guidance and do not have access to printing or postal facilities and so will make the notice available online as well as through email to notify as many as is practical in the circumstances. Suitable use of media will also be made so as to ensure widespread news of the change is disseminated throughout the taxi trade.

### **Recommendation 2**

Due to the impact that social distancing and self-isolation has on Fleet Services, more details in the justification section 3 of this report, it is desirable to reduce the potential contact points between those performing the tests and those presenting vehicles for tests. Fleet Services have requested that the six month tests are ceased from 30<sup>th</sup> March 2020 to allow them to cope with the demand for essential work and to allow them to practice social distancing measures for a period of 6 months initially. This is due to them having reduced capacity through staff who are self-isolating and to reduce any contact of staff with members of the public. The proposal is to change the “period” as defined by the Council for the purpose of s.11 of the 1982 Act from six months, to the duration of the licence. It is proposed that although inspections and testing will be more limited, that vehicle licence holders must ensure that their vehicles are safe, roadworthy and would pass an inspection if presented. There are also powers that the Council, and Police Scotland, has to give notice of a

	<p>test where there are concerns as to the safety of a vehicle and to require them to have a test, and if there are real concerns to suspend the licence until satisfied that the vehicle is safe. Given that there are those safeguards in place, extending the period for testing to the duration of the licence is reasonable in that regard. This is also covered in the guidance to operators.</p> <p><b>Summary</b></p> <p>Vehicle licences granted before the 30<sup>th</sup> March 2020 will be:-</p> <ul style="list-style-type: none"> <li>• Varied to add an additional 6 months onto the duration of their licence so that they coincide with the length of an MOT test.</li> <li>• Subject to only 1 inspection/test in that 18 month period.</li> </ul> <p>The above means that there will be no requirement to test any renewals in the next 6 months which assists Fleet Services in reducing unnecessary contact and gives certainty to the taxi trade.</p> <p>The notice period only affects recommendation 1. Recommendation 2 can be implemented immediately.</p> <p>These proposals are subject to change due to any emergency legislation that is passed by the Government and will be revisited if need be.</p>
<p>What is the recommendation to the Delegated Officer?</p>	<ol style="list-style-type: none"> <li>1. <b>Vary all vehicle licences granted in the twelve months prior to 30<sup>th</sup> March 2020 to the effect that the duration is extended for a period of 6 months and subject to the condition that all licence holders must ensure that their cars are safe and roadworthy and would pass an inspection if presented to the Council.</b> This is subject to a 7 day notification period which will be publicised online and via email as much as possible.</li> <li>2 Determine that the period in which vehicle licence holders must present their vehicles for testing is extended <b>to once during the duration of the licence</b> rather than every six months with effect from 30<sup>th</sup> March 2020 for the period of one year at which point this decision will be reviewed by the Licensing Sub-Committee. For the avoidance of doubt, this means that a vehicle must be tested by the Council before a licence is granted to ensure that the Council is satisfied that the car is safe and is roadworthy.</li> </ol>
<p><b>2. Justification for use of delegation</b></p>	
<p>Detail the consequence/risk if matter cannot be progressed timeously and include why this cannot wait for the next meeting of the committee.</p>	<p>This decision would normally be taken by the Licensing Sub-Committee, their next meeting is the 24<sup>th</sup> April. National guidance from the UK and the Scottish Governments are being issued daily in response to the Covid-19 pandemic. Particularly the announcement on Monday 23<sup>rd</sup> March in relation to social distancing and self-isolation has meant that operational matters including the testing of vehicles must be assessed in accordance with that guidance.</p> <p>Garages are classified as essential work however, the capacity of the garages operated by Fleet Services, the designated place for testing to take place, is becoming compromised due to staff members self-isolating and in order to reduce contact and to comply with social distancing, only essential work should be carried out.</p>

	<p>Reducing the number of tests that the garage are asked to do reduces contact with members of the public, and with vehicles who have been carrying potentially large numbers of members of the public, which means that there is reduced opportunity for the virus to spread in line with current Government advice.</p> <p>The annual tests which are the initial test that a vehicle must pass to be issued with a licence, that are provided by the garages in Aberdeenshire, for any age of car, are effectively MOTs with additional more stringent requirements. The Government has today announced that there will be an extension of 6 months onto all car MOT's from 30<sup>th</sup> March 2020.</p> <p>Given the unprecedented effects of the Covid-19 pandemic, and the possible risk to life that it may bring, it is considered necessary and appropriate to bring these measures into effect as soon as possible to protect both members of staff and the public from unnecessary contact which may facilitate the spread of the infection and to focus reduced resources on essential work. A meeting of the Licensing Sub-Committee requires at least 3 days' notice. It is considered vital to make a decision on these matters so that those who have vehicles booked in for testing from the 30<sup>th</sup> March 2020, Monday, are given notice of what is expected, or if indeed they have to attend. By making a decision by officers through urgent delegated powers, the licensing team will be able to get in touch with those booked in to ensure that they are given notice of any cancellation of tests and bring the new measures into force with necessary and appropriate haste.</p>
<b>3. Consultation</b>	
Chief Executive	Date: 26/3/20 Agree/Disagree
Chair of Committee	Date: 27/3/20 Agree/Disagree
Vice Chair of Committee	Date: 26/3/20 & 27/3/20 THERE IS NO VICE CHAIR – WHOLE LIC SUB-COMM CONSULTED – ALL IN AGREEMENT Agree/Disagree
Opposition Spokesperson of Policy Committee (if a policy committee decision)	Date: 26/3/20 & 27/3/20 THERE IS NO OPPOSITION SPOKESPERSON– WHOLE LIC SUB-COMM CONSULTED – ALL IN AGREEMENT Agree/Disagree
Any other relevant officer or elected member	Date: n/a Response:
<b>4. Council Priorities, Implications and Risk</b>	

Specify which Council Priorities are supported by the decision to be made	Priority 10 – Have the right people, in the right place, doing the right thing, at the right time.
Detail any other key strategic priorities that this decision supports	Ensures compliance with UK and Scottish Government Guidance in response to the Covid-19 pandemic
Equalities Impact Assessment required?	No - An equality impact assessment is not required because <i>there will be no</i> differential impact on any of the protected characteristics
Fairer Scotland Duty	No impact assessment required, the aim is to be as fair to all vehicle operators and there may be positive impacts on pockets in ensuring a source of income to those dependent on it.
Staffing Implications	One of the aims is to protect staff and members of the public from potential spread of Covid-19.
Financial Implications	There will be financial impacts of Covid-19 on the licensing service however the impact of this decision may delay some income however should enable recovery of some lost income further down the line.
Sustainability	No impacts
Town Centre First Principle	No
Children and Young People's Rights and Wellbeing	No impact currently. Schools etc are currently closed and so there are no immediate impacts. These measures aim to keep as many licensed vehicles on the road so that should schools return, there will be vehicles able to transport them.
<b>5. Governance</b>	
Name of Committee and delegation in <a href="#">Part 2A of the Scheme of Governance</a> that should have been utilised	Committee: Licensing Sub-Committee Delegation: Their delegation from Business Services Committee to deal with all licensing issues.
Monitored by Finance	Name: Date:
Monitored by Legal	Name: Laura Bremner Date: 26.03.20
Final Decision by Delegated Officer	TO EXTEND LICENCES FROM 1 YEAR TO 18 MONTHS & TO RELAX 6 MONTHLY TESTING SO AS TO ONLY INSIST ON ONE TEST IN THE DURATION OF THE 18 MONTH LICENCE
If required, Committee Meeting to be reported to -	Committee: Licensing Sub-Committee Date of Meeting: 24 <sup>th</sup> April 2020
Electronically Signed by Delegated Officer	Name: Date: 27/3/20