

Safeguarding Training and Convictions Policy for Hackney Carriage and Private Hire Drivers and Private Hire Operators

Portfolio:	Non-Executive Function
Ward(s) Affected:	All

Purpose

To consider a requirement for Hackney Carriage and Private Hire Drivers to receive compulsory safeguarding training regarding Child Sexual Exploitation (CSE) and to review the previous convictions policy for drivers and Private Hire Operators

1. Background

- 1.1. In recent years there has been greater awareness about the issue of Child Sexual Exploitation (CSE). High profile media coverage of specific cases in the North of England highlighted failures within social services and other public sector bodies. These failures often allowed the abuse of vulnerable children to continue without detection or action.
- 1.2. In the wake of such incidents and as a result of the attention that grooming and other forms of exploitation have received, the Government have put additional focus on combating CSE. Professor Alexis Jay's Independent Inquiry into Child Sexual Exploitation in Rotherham was commissioned by Rotherham Metropolitan Borough Council in October 2013 and published on 26th August 2014. This covered the periods 1997-2009 and 2009-2013, and looked at how Rotherham Borough Council's Children's Services dealt with child sexual exploitation cases. On 10th September 2014, the Government appointed Louise Casey to carry out a Report of Inspection of Rotherham Borough Council specifically in relation to its functions on governance, children and young people, and taxi and private hire licensing. The Government responded to these reports in March 2015 with publication of the document Tackling Child Sexual Exploitation.
- 1.3. Some of the conclusions drawn from research into the experience and handling of CSE in Rotherham has been the identification that many in the council and its local partners continued to deny the scale of the problem; that not enough action was taken to stop the abuse; and that there was not enough communication, collaboration and joint working between local government, the police, the different agencies responsible for child protection, and the communities in which CSE occurs.
- 1.4. Tackling Child Sexual Exploitation sets out a number of actions designed to address the failures seen in Rotherham and other areas, including a new whistleblowing portal for child abuse related reports; a national taskforce and centre of expertise to assist public sector bodies in combating CSE; changes to promote accountability and end a culture of denial; and giving child sexual abuse the upgraded status of a national threat in the Strategic Police Requirement, so it is prioritised by every police force.

2. Current Position

- 2.1. One area of concern identified within Louise Casey's Report of Inspection was whether Rotherham Borough Council had made sufficient efforts to ensure that only 'fit and proper' persons were permitted to hold a hackney carriage or private hire licence. Professor Jay described the prominent role of taxi drivers in facilitating or engaging in CSE as a 'common thread' across England, while inspectors have raised concerns that the licensing and enforcement side of taxi and private hire regulation are often unable or uninterested in getting to grips with the issue and using their powers to good effect.
- 2.2. Those with a responsibility for confronting and tackling CSE therefore need to be aware of the potential role that taxis can play in facilitating abuse, ensure that only those who are fit and proper hold a licence, and that there are robust procedures in place for dealing with complaints. Public safety must be the first and most important priorities when determining policy, setting standards and determining enforcement of issues related to taxi and private hire licensing.

- 2.3. It is also important that those with responsibility for overseeing the taxi and private hire licensing functions of local authorities are aware of the challenges that those operating within the trade may face when asked to transport children or vulnerable young adults. Taxi drivers fall under the scope of Section 59(A) of the Sexual Offences Act 2003, which makes it an offence to intentionally arrange or facilitate the travel of a person within the UK for the purposes of sexual exploitation; or believes that another person is likely to abuse the passenger during or after the journey. This means that if a driver transports a child knowing or believing that the child will be sexually exploited, that driver will commit the offence of human trafficking and could face a maximum sentence of 14 years imprisonment.
- 2.4. There is a responsibility, on local authorities, private hire operators, and individual drivers to ensure that licensed drivers are aware of the warning signs that could indicate when a passenger is at risk of trafficking or CSE, and that training is available or has been undertaken to assist those in the taxi trade to deal with such scenarios and report them to the relevant authorities.
- 2.5. Surrey Heath Borough Council does not currently include specific safeguarding with regard to CSE. Nor does the Council offer or provide training on CSE as part of the requirements of obtaining or retaining a licence. However, partnership working is currently underway between all Surrey District, Borough, and County Councils with the objective of agreeing a consistent approach across the county.
- 2.6. Part of the Surrey Multi-Agency Strategic Child Exploitation action plan, is to agree consistent procedures with district and borough councils for vetting and licensing of premises and taxis and agree standards for revoking licenses.

3. Training

- 3.1. On 21 July 2015 all licensed Hackney Carriage and Private Hire Drivers/Operators were invited to attend a Safe-Guarding Course delivered by Surrey Police. Of the approximate 230 licensees, just 8 attended the one day training course.
- 3.2. The process was repeated but with more forceful wording on 28 February 2017 and 77 drivers attended the training session, 9 drivers have made arrangements to receive training with other Boroughs on alternative dates and a further 36 drivers have received training provided by their operators as a result of a compulsory requirement for Surrey County Council School Contracts, making a total of 122 or 53%.
- 3.3. Officers are proposing mandatory training for all licensed Hackney Carriage and Private Hire Drivers and Operators to undertake an appropriate safeguarding course.
- 3.4. It is envisaged that new applicants would have to undertake the training as part of the application process whilst existing drivers would be given a period of one year to complete this training.
- 3.5. Officers are looking at a number of options regarding safeguarding and CSE Training in the long term.

4. Convictions Policy

- 4.1. It is a matter of good practice to keep Council Policies under review and where necessary update them so as to better reflect the present need within the local area and national agenda. The present Policy has not been considered for some time. The recommendation, if adopted, would see a comprehensive review of the Policy and result in the production of a document which sets out clearly the process and options for decision making.
- 4.2. The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is to ensure:
- that a person is a fit and proper person
 - that the person does not pose a threat to the public
 - that the public are safeguarded from a dishonest person
 - the safeguarding of children and young persons.

4.3. The Council requires applicants and licenced drivers to provide information in respect of their health, driving record and criminal record. In addition to this, they must also undertake tests on their knowledge of the relevant law and the local area. All these elements are considered within the “fit and proper” test.

4.4. The Local Government (Miscellaneous Provision) Act 1976 provides that a Licensing Authority must be satisfied that the applicant is a fit and proper person to hold a drivers licence. This has not been defined but in 1998 in the case of *McCool-v-Rushcliffe Borough Council* Lord Bingham, Lord Chief Justice at that time, gave a very clear and concise definition of the test as follows;

“One must it seems to me approach this case bearing in mind the objectives of this licensing regime which is plainly intended among other things to ensure so far as possible that those licensed to drive private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience; sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers. “

4.5. Taxis and private hire vehicles are by their very nature more likely than other methods of transport to be used by people who for one reason or another are vulnerable. Indeed a passenger may be in a taxi or private hire vehicle rather than another mode of transport precisely because they are young, elderly, have a disability or some other special need, have consumed alcohol, are in an unfamiliar place or because it is 3am or the destination is remote and isolated. For all of these reasons the trustworthiness of the driver is essential

4.6. It should be noted that The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending, when assessing safety and suitability. Enhanced Disclosure and Barring Service (DBS) certificates are obtained by the authority in respect of a new applicant and these are renewed every 3 years.

4.7. The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

4.8. The Local Government Association (LGA) has provided a draft policy. It is suggested that the content within this template will help to add greater clarity for both the person making a decision and for an applicant or licensed driver who has criminal convictions or allegations made against them.

4.9. Following recent high profile media coverage of cases in the North of England it is clear that a robust policy is needed to tackle such problems. The proposed amendments to the LGA draft policy reflect the current social climate and balance the rights of applicants against the safeguarding of members of the public who use the service. A more stringent approach is being taken by Council's, examples of which are Guildford Borough Council and Bracknell Forest Council who both adopted a similar policy.

4.10. The recommendation is therefore that Members approve the draft policy as attached at Annex 1 for consultation and the results of the consultation together with a policy document will be brought to the next Licensing Committee for consideration.

4.11. It is proposed to consult with the Taxi and Private Hire Trade and the Council's list of consultees for a period of 6 weeks and report back to the Licensing Committee on 26 June 2017.

4.12. It should be noted that as an alternative approach the Council could continue to utilise the existing guidance but there could exist a higher risk of challenge in the Courts directed at the suitability of the process this Council uses in its decision making process.

5. Resource Implications

- 5.1. The only additional resource implication arising from the training process is postage and stationary costs. The total costs were met within the existing budget. It is proposed that future training will be self-funded.

6. Recommendations

6.1. That the Licensing Committee:

- i. Note the work currently being undertaken by officers on Child Sexual Exploitation
- ii. Approve the draft Hackney Carriage and Private Hire Convictions Policy, attached as Annex A, for the purposes of consultation for a period of 6 weeks

Background Papers: None

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