

LICENSING COMMITTEE - 23 JANUARY 2018

**SURREY-WIDE CONVICTIONS POLICY**

**Executive Summary**

This report details the consultation process and responses on the proposed changes to the Taxi and Private Hire Licensing Policy to help prevent the sexual exploitation of vulnerable children and adults by introducing consistent standards across Surrey.

The consultation responses for both Woking and across Surrey were largely in favour of both the proposals.

The key changes are:

- Adopting a consistent taxi and private hire convictions policy across Surrey
- Mandatory Child Sexual Exploitation (CSE) training for all taxi and private hire drivers in Surrey

The reason for the recommendations is to help protect vulnerable children and adults from sexual exploitation.

**Recommendations**

The Committee is requested to:

**RECOMMEND TO COUNCIL That**

- (i) **The Surrey wide Taxi and Private Hire Convictions Policy at Appendix 3 be adopted;**
- (ii) **the requirement for all existing taxi and private hire drivers to undertake mandatory CSE training by 1 May 2019 be approved; and**
- (iii) **the requirement for all new taxi and private hire drivers to undertake mandatory CSE training from the 11 April 2018 be approved.**

**This will need to be dealt with by way of a recommendation to the Council.**

**Background Papers:**

None.

**Reporting Person:**

Joanne McIntosh, Legal Services Manager  
Ext. 3038, E Mail: Joanne.Mcintosh@woking.gov.uk

**Contact Person:**

Joanne McIntosh, Legal Services Manager  
Ext. 3038, E Mail: Joanne.Mcintosh@woking.gov.uk

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### 1.0 Introduction

- 1.1 The report informs the Committee on the consultation results of the proposed amendments to the Taxi and PHV Licensing Criminal Convictions Guidelines.
- 1.2 It asks the Licensing Committee to recommend to Council to adopt the proposed policy changes.

### 2.0 Background

- 2.1 The current Taxi and Private Hire Criminal Convictions policy adopted on the 14 July 2016 introduced positive changes to protect public safety. Since the introduction of the policy, The Surrey Safeguarding Children Board (SSCB) and its partners including all 11 Surrey Local Authorities have agreed a Child Sexual Exploitation Strategy and action plan, which aims to develop a co-ordinated response to child sexual exploitation (CSE) across the County. Licensing targets include taxi and private hire licensing, premises licensed under the Licensing Act 2003, participation in Operation Make safe and information sharing.
- 2.2 Achieving the targets, helps enable Surrey Local Authorities to fulfil their statutory responsibilities defined in Section 11 of the Children's Act 2004 to safeguard children and to promote welfare effectively. Delivery of the strategy supports the SCCB's statutory duties to co-ordinate activities to safeguard and promote the welfare of children in Surrey, as well as ensuring the effectiveness of what is being done by partners.
- 2.3 Two actions identified within the CSE action plan and related to taxi and private hire are:
  - Adopting a consistent taxi and private hire convictions policy across Surrey
  - Mandatory CSE training for all taxi and private hire drivers in Surrey
- 2.4 The two changes will raise the standards of public safety across Surrey and build on the positive steps already taken to protect the most vulnerable in our communities.

### 3.0 Consultation

- 3.1 On 10 October 2017, the Licensing Committee were briefed on the proposal to introduce the above policy changes. Reigate and Banstead Borough Council hosted a six week consultation on behalf of all 11 Surrey Local Authorities between 23 October and 4 December 2017. Each Local Authority publicised the consultation with Woking specifically:
  - Advertising the consultation on the Council's website
  - Promoting through social media
  - Sending a newsletter to all private hire and taxi drivers inviting them to participate in the consultation
- 3.2 The organisations below were also invited to respond to the consultation:
  - Institute of Licensing
  - Transport for London
  - Local Government Association
  - National Association of Licensing and Enforcement Officers
  - All District and Borough Councils in the South East of England
  - Surrey Police

- 3.3 The 396 consultation responses received have been analysed collectively, these are shown in Appendix 1. Responses from the taxi and private hire trade and those who live, work or visit the County are presented separately for comparison purposes.
- 3.4 There has been separate analysis of each Local Authority area. A summary of responses in respect of Woking can be found at Appendix 2.

### 4.0 Convictions Policy - Consultation results

- 4.1 Local Authorities across Surrey are seeking to standardise the information they take into account when determining if someone is 'fit and proper' by adopting the same convictions policy.
- 4.2 The consultation results showed support across Surrey for introducing the convictions policy with 73% (69% of the taxi and private hire trade and 76% of those who live and work in the County) in agreement with the relevant convictions and free from conviction timescales being included in the new policy and used when determining if a person is 'fit and proper'.
- 4.3 There was also strong support for people banned from working with children or vulnerable adults not normally being granted a taxi or private hire licence with 87% (93% of those who live or work in Surrey and 78% of the Surrey taxi and private hire trade) in agreement that it should be included in the policy.
- 4.4 Introducing this element in the policy removes the unacceptable risk, which currently exists of those banned from working with children and vulnerable persons not being permitted to drive under a Surrey County Council contract but potentially being granted a licence by a Surrey District or Borough Council.
- 4.5 Following analysis of all the consultation responses amendments have been made to the draft convictions policy. All consultation comments can be found at: [http://www.reigate-banstead.gov.uk/info/20119/taxi\\_and\\_private\\_hire\\_licensing/902/taxi\\_and\\_private\\_hire\\_policy\\_consultation\\_2017\\_results](http://www.reigate-banstead.gov.uk/info/20119/taxi_and_private_hire_licensing/902/taxi_and_private_hire_policy_consultation_2017_results). The key proposed changes to the policy are:
- Including the ability to consider relevant records or information from a reliable source other than the police when determining if an applicant is fit and proper.
  - Clarifying that the policy applies to applicants, which includes companies.
  - Confirming Councils will only depart from the policy in exceptional circumstances.
  - Clarifying that the 'Offences involving a weapon' heading does not include firearms offences which are in a separate section.
  - Increase relevant years for offences involving weapons to 5 years, as consultation feedback highlighted the current standard is too low particularly compared with 5 years for obstruction offences.
  - In the alcohol and drug offences section, drunkenness offences not involving a motor vehicle are an addition as they are already in one Local Authorities' policy and excluding them would result in lowering the existing standard.
  - Minor grammatical changes.
  - Changes to clarify the elements that are 'policy' and 'guidance'.
- 4.6 Several respondents wished to see a blanket ban for applicants with certain convictions. When applying the convictions policy, all Licensing Authorities must judge each case on its merits and an absolute prohibition cannot be imposed therefore a mandatory ban is not appropriate and the phrase 'normally would be refused' is used within the policy.

- 4.7 A number of respondents felt that common assault is different from other offences in the 10 year category and a lower number of years would be more appropriate. It is not proposed to lower the period for common assault as it is considered a relevant serious offence and Local Authorities have discretion, as they must judge each case on its merits.
- 4.8 The revised version of the convictions policy taking into account the consultation responses and proposed by all Surrey authorities is at Appendix 3. Appendix 4 is a version of the draft policy with the proposed amendments highlighted.
- 4.9 Prior to the policy being implemented training would be arranged for Licensing Officers, Solicitors and Licensing Committee Members to help ensure consistency of application.
- 4.10 Further changes to the convictions policy may be required in the future to comply with guidance issued by organisations such as the Department of Transport or the Institute of Licensing to standardise the convictions policies across the Country.
- 4.11 In the future all 11 Local Authorities will aim to keep the convictions policy consistent across Surrey as guidance and best practice changes.

### **5.0 Mandatory CSE and Safeguarding Training – consultation results**

- 5.1 Surrey Local Authorities want to take appropriate steps to protect the most vulnerable in our society by introducing mandatory CSE and safeguarding training for taxi and private hire drivers. A number of Local Authorities have already introduced this requirement.
- 5.2 Results of the consultation showed support for the proposal with 69% (56% of the Surrey taxi and private hire trade and 73% of those who live and work in the County) agreeing that taxi and private hire drivers should have to complete this additional training on Child Sexual Exploitation and Safeguarding prior to becoming a driver.
- 5.3 In total 64% of all respondents support Child Sexual Exploitation training for existing drivers but there was a difference between responding groups. 72% of respondents who live and work in Surrey supported the proposal of existing taxi and private hire drivers having to complete additional training on Child Sexual Exploitation and Safeguarding. There was less support, only 41%, from the respondents working in the taxi and private hire trade for existing drivers being required to undergo the training.
- 5.4 Whilst it is acknowledged there is not widespread support amongst trade respondents the public were in strong support of the proposal and Local Authorities have a social responsibility to take steps to prevent CSE. Due to the nature of their work, the taxi trade are in a unique position to be able to identify CSE therefore it is recommended to retain the proposal requiring existing drivers to complete the training.
- 5.5 If approved, Surrey Local Authorities are ready to implement an online training programme, which would be free for one year to all existing drivers. The training would take approximately one hour to complete and include how to spot signs of child sexual exploitation and how to report concerns of children or vulnerable persons at risk using agreed Surrey processes. There will be a multiple-choice assessment to ensure understanding of the subject matter and each Local Authority will make arrangements for completion of the course.

### **6.0 Consultations**

- 6.1 Surrey Safeguarding Children Board have been involved throughout and endorse these proposals.

- 6.2 Having reviewed the consultation results, the Surrey Licensing Officers Group and Surrey Solicitors Group continue to support the introduction of a common convictions policy and mandatory CSE training across Surrey. The Surrey Chief Executive Group supports the introduction of these proposals with one Chief Executive monitoring implementation of these proposals.

### 7.0 Implications

#### Financial

- 7.1 There are no financial implications of adopting the revised convictions policy.
- 7.2 The Surrey Chief Executive Group has agreed to pay for the CSE training for one year to support its introduction so there is no cost to existing drivers.

#### Human Resource/Training and Development

- 7.3 There are no human resource implications arising from these proposals.

#### Community Safety

- 7.4 By taking a clearer and collective approach to our Criminal Convictions Policy, the Council is ensuring its duty to protecting the public is met, as it ensures all drivers are 'fit and proper' and safe to operate a public service or private hire vehicle.

#### Risk Management

- 7.5 Whilst nothing at all like the events that took place in Rotherham have taken place in Woking, by improving the Policy and ensuring it is clear where the Council stands on the issuing of licences to offenders, it will hopefully minimise the risk not just to the general public, but also the risk to the status of Woking Borough Council should someone re-offend.

#### Sustainability

- 7.6 There are no sustainability implications in adopting the proposed changes to the policy.

#### Equalities

- 7.7 There are no equality and diversity implications in adopting the proposed changes to the policy.

#### Legal

- 7.8 The basis for the changes within the policy is to ensure that the Council fulfils its statutory safeguarding obligations to prevent the exploitation of children and vulnerable persons more effectively.
- 7.9 There is no statutory requirement to have a taxi and private hire licensing policy; however, it is good practice to do so. A policy assists with consistent decision-making; however each case must be considered on its own merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances.

**8.0 Conclusion**

- 8.1 Officers recommend that both the convictions policy and Child Sexual Exploitation (CSE) training for all new and existing taxi drivers be adopted as presented to help ensure consistency across all Surrey Local Authorities in protecting children and vulnerable adults from CSE.
- 8.2 Adopting these two changes to the Taxi and Private Hire Licensing Policy will help ensure a co-ordinated and consistent response across Surrey to prevent the sexual exploitation of children in Surrey.

REPORT ENDS