



<b>REPORT OF:</b>	HEAD OF HEALTH AND WELLBEING
<b>AUTHOR:</b>	BEN MURRAY
<b>TELEPHONE:</b>	01737 276085
<b>E-MAIL:</b>	Ben.murray@reigate-banstead.gov.uk
<b>TO:</b>	LICENSING & REGULATORY COMMITTEE
<b>DATE:</b>	16 JANUARY 2018

<b>AGENDA ITEM NO:</b>	4	<b>WARD(S) AFFECTED:</b>	ALL
------------------------	---	--------------------------	-----

<b>SUBJECT:</b>	ADOPTION OF A SURREY WIDE CRIMINAL CONVICTIONS POLICY AND THE INTRODUCTION OF SAFEGUARDING TRAINING FOR LICENSED DRIVERS AND APPLICANTS
-----------------	---

**RECOMMENDATIONS:**

- (1) That the Surrey Wide Criminal Conviction Policy as set out in Annex 6 is adopted.
- (2) That safeguarding training is implemented and made a requirement for all existing and new licensed taxi and private hire drivers.
- (3) That the Head of Service with responsibility for licensing is authorised to make minor changes and adjustments to the Conviction Policy and amend relevant parts of the Taxi & Private Hire Licensing Policies in consultation with the Chairman of the Licensing & Regulatory Committee.

The above recommendations are subject to approval by full Council.

**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, both for Reigate & Banstead BC and across Surrey in general, were largely in favour of both the proposals.

The key changes proposed are:

- to adopt a consistent taxi and private hire convictions policy across Surrey; and
- mandatory Child Sexual Exploitation (CSE) safeguarding training for all taxi and private hire drivers in Surrey.

## **FACTORS FOR CONSIDERATION**

1. The current Conviction Policy adopted on 29 February 2012 (Annex 5) replaced the outdated Department of Transport Circular 2/92 and Home Office Circular 13/92, and introduced positive changes to protect public safety through clear guidance to applicants, officers and members in respect of relevant convictions received.
2. Since the introduction of the policy, the Surrey Safeguarding Children Board (SSCB) and its partners, including all eleven 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.
3. Licensing targets include taxi and private hire licensing, premises licensed under the Licensing Act 2003, participation in Operation Make-Safe and information sharing.
4. Achieving the targets will help to enable all the Surrey Local Authorities to fulfil their statutory responsibilities as defined in Section 11 of the Children's Act 2004, being to safeguard children and to promote welfare effectively.
5. Delivery of the strategy supports the SSCB's statutory duties to co-ordinate activities to safeguard and promote the welfare of children in Surrey, as well as ensuring the effectiveness of work undertaken by its partners.
6. Two actions identified within the CSE action plan, specifically related to taxi and private hire, are:
  - to adopt a consistent taxi and private hire convictions policy across Surrey; and
  - mandatory CSE training for all taxi and private hire drivers in Surrey.
7. These two actions will raise the standards of public safety across Surrey and build upon the positive steps already taken to protect the most vulnerable in our communities.

## **CONSULTATION**

8. Reigate and Banstead Borough Council hosted a six week consultation on behalf of all the Surrey Local Authorities during the period 23 October to 4 December 2017. Each Local Authority publicised the consultation with RBBC, specifically by:
  - advertising the consultation on the Council's website;
  - promoting the consultation through social media;
  - inviting all private hire and taxi drivers to participate in the consultation via email; and
  - inviting all councillors to participate in the consultation.

9. The organisations below were also invited to respond:
  - 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
10. The 393 consultation responses received have been analysed collectively and the outcomes are set out in Annex 1.
11. Responses from the taxi and private hire trade and those who live, work or visit the county are presented separately, for comparison purposes, in Annexes 3 and 4.
12. Three separate written consultation responses have also been considered.
13. Separate analysis and a comparison of each Local Authority area's responses is set out in Annex 2. Of the 183 responses, 59% were from the taxi and private hire trade with the remainder being mainly from those who live or work in the Borough.

### **Consultation results - Convictions Policy**

14. Local Authorities across Surrey are seeking to standardise the information to be taken into account when determining if someone is 'fit and proper' through adoption of an agreed county-wide convictions policy.
15. The consultation results showed support across Surrey for introducing such a 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 included in the new policy when determining if a person is 'fit and proper'. The support within RBBC was slightly stronger with 76% in agreement.
16. There was also strong support for the inclusion of a statement to the effect that people who have been banned from working with children or vulnerable adults will not normally be granted a taxi or private hire licence. Overall, 87% (93% of those who live or work in Surrey and 78% of the Surrey taxi and private hire trade) were in agreement. Within the RBBC area 57% agreed with inclusion of such a statement.
17. Introducing this statement into the policy removes the unacceptable – and current – risk that those banned from working with children and vulnerable persons and not permitted to drive under a Surrey County Council contract, could nonetheless potentially be granted a licence by a Surrey District or Borough Council.
18. 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)

19. The key proposed changes to the policy are to:
  - include 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;
  - clarify that the policy applies to applicants which includes companies;
  - confirm that Councils will only depart from the policy in exceptional circumstances;
  - clarify that the 'Offences involving a weapon' heading does not include firearms offences which are in a separate section;
  - increase the relevant years for offences involving weapons to 5 years as consultation feedback highlighted that the current standard is too low, particularly compared with 5 years for obstruction offences;
  - include in the Alcohol and Drug Offences section 'drunkenness offences not involving a motor vehicle' as they are already in one Local Authority's' policy and excluding them would result in lowering the existing standard; and
  - make minor grammatical changes.
  - make changes to clarify the distinction between elements that are 'policy' and those that are 'guidance'.
20. Several respondents wished to see a blanket ban for applicants with certain convictions.
21. When applying the convictions policy, a licensing authority must judge each case on its merits and an absolute prohibition cannot be imposed.
22. A mandatory ban would not, therefore, be appropriate and the phrase 'normally would be refused' is used within the policy.
23. A number of respondents felt that common assault is different from other offences in the 10 year category and that a lower number of years would be more appropriate.
24. It is not proposed to lower the period for common assault as it is considered a relevant serious offence. This was the period consulted on, and a local authority maintains discretion having to judge each case on its individual merits.
25. Annex 4 sets out the revised version of the convictions policy, incorporating the proposed amendments as agreed by all Surrey authorities as an outcome of the consultation exercise.
26. Prior to implementation of the new policy it is proposed to arrange training for Licensing Officers, Solicitors and Licensing & Regulatory Committee Members with the aim of ensuring consistency of application across the county.

27. When changes in guidance are issued by national bodies such as the Department of Transport or Institute of Licensing, the intention is to agree and incorporate any consequential amendments into the Surrey-wide policy, so that consistency is maintained across the county.

### **Consultation Results - Mandatory Child Sexual Exploitation (CSE) and Safeguarding Training**

28. 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.
29. Prior to becoming a RBBC driver, applicants are required to pass a knowledge test, carry out a DBS, undergo a driving licence check and prove their right to work. There is currently no requirement for CSE or Safeguarding training.
30. Results from the consultation showed support for new taxi and private hire drivers having to complete training on Child Sexual Exploitation and Safeguarding, with 69% (56% of the Surrey taxi and private hire trade and 73% of those who live and work in the County) in favour. Amongst RBBC respondents, 71% were in agreement with the proposal.
31. In total, 64% of all respondents supported Child Sexual Exploitation training for existing drivers but there was a difference between responding groups: 72% of respondents who live and work in Surrey agreed but there was less support - only 41% - from respondents working in the taxi and private hire trade. 65% of RBBC respondents agreed with the proposal.
32. Whilst it is acknowledged that there is not widespread support amongst trade respondents, the public were in strong support of the proposal and Local Authorities do have a responsibility to take steps to prevent CSE.
33. Due to the nature of their work, the taxi trade are in a unique position to be able to identify CSE issues, therefore, it is recommended to include a requirement for existing drivers to complete the training.
34. If approved, Surrey Local Authorities are ready to implement the online training programme, which would be free of charge to all existing drivers during the first year of introduction of the policy.
35. The training will 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. A multiple-choice assessment will be set at the end of the session to ensure understanding of the subject matter.
36. The Surrey Safeguarding Children Board has been involved throughout and endorses these proposals.
37. 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.

### **EQUALITY AND DIVERSITY IMPLICATIONS**

38. There are no equality and diversity implications in adopting the proposed policy.

### **FINANCIAL IMPLICATIONS**

39. There are no financial implications in adopting the revised convictions policy.

40. 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.

### **LEGAL IMPLICATIONS**

41. 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.

42. The current taxi byelaws remain unchanged.

43. There is no statutory requirement to have a taxi and private hire conviction policy, however, it is good practice to do so.

44. 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.

45. In relation to taxi and private hire licensing, there are specific powers contained in the Town Police Clauses Act 1847, Transport Act 1985 and Local Government (Miscellaneous Provisions) Act 1976. These allow the Council to specify the requirements that vehicles and drivers must meet in order to be licensed, and to refuse a licence to drivers if it is not satisfied that the drivers are fit and proper persons to hold a licence. They also allow conditions to be attached to licences (with the exception of hackney carriage drivers' licences).

46. Any applicant aggrieved by the refusal of a local authority to grant a private hire driver's licence on the ground that (s)he is not a fit and proper person to hold such licence may appeal to a magistrates' court within 21 days of the notification of the decision. (Section 52 Local Government (Miscellaneous Provisions) Act 1976).

### **STATUTORY POWERS**

47. Under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, a district or borough council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence. A district or borough council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

48. Section 46(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 provides that any person who wishes to work as a private hire driver must first obtain the relevant licence.

## CONCLUSIONS

49. The Council has a statutory obligation to ensure that a hackney carriage and/or private hire driver or operator licence is only granted to an applicant who can be seen as being a 'fit and proper' person.
50. It is considered to be best practice for local authorities to set policy and guidelines to help inform such decisions.
51. This conviction policy and additional mandatory safeguarding training will assist in assessing and ensuring licences are issued to 'fit and proper' applicants.

## BACKGROUND PAPERS

- Minute 13 of the Regulatory Committee of 29 February 2012 adopting current criminal conviction guidance. <https://democracy.reigate-banstead.gov.uk/aksreigate/users/public/admin/kab12.pl?cmte=REG&meet=69&arc=71#egenkabit5>
- Report of Professor Jay into Child Sexual Exploitation in Rotherham (September 2014) [http://www.rotherham.gov.uk/downloads/file/1407/independent\\_inquiry\\_cse\\_in\\_rotherham](http://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham)
- Casey report into Rotherham Metropolitan Borough Council (February 2015) <https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>
- Surrey Safeguarding Children Board, Child Sexual Exploitation Strategy 2016-17 <http://www.surreyscb.org.uk/wp-content/uploads/2016/05/SSCB-CSE-Strategy-2016-17.pdf>
- Surrey Safeguarding Children Board, Child Sexual Exploitation Action Plan 2016-17 <http://www.surreyscb.org.uk/wp-content/uploads/2016/12/Updated-joint-Surrey-CSE-Plan-Dec-2016-v.4.0.pdf>

## **ANNEXES**

Annex 1	Survey Results – Surrey
Annex 2	Survey Results – Reigate and Banstead
Annex 3	Survey Results – Trade related responses
Annex 4	Survey Results – Live, work and visit area
Annex 5	Existing RBBC Convictions Policy
Annex 6	Proposed Surrey Wide Convictions Policy