

**WAVERLEY BOROUGH COUNCIL**

**LICENSING AND REGULATORY COMMITTEE – 15 JANUARY 2018**

---

**Title:**

**HACKNEY CARRIAGE AND PRIVATE HIRE POLICY REVIEW – SURREY WIDE  
CONSULTATION**

[Wards Affected: All]

---

**Summary and purpose:**

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 Waverley and across Surrey were largely in favour of both 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.
- 

**How this report relates to the Council's Corporate Priorities:**

Taxis play an important part in the overall public transport network in the borough, and contribute to policies on the environment and improving lives.

**Equality and Diversity Implications:**

There are no equality implications.

**Resource/Value for Money implications:**

The resource implications would be the cost following adoption for the printing (internal) and posting of approximately 320 updated policy booklets to licensees. All Surrey local authorities have signed up to pay for the CSE training, for one year, to support its introduction. There is no cost therefore to existing drivers.

**Legal implications:**

Once granted, licences are classed as a possession under Article 1 of the First Protocol of the European Convention on Human Rights (enshrined in UK law under the Human Rights Act 1998). The Act states that every person is entitled to the peaceful enjoyment of his possessions. Policies or guidelines should not be established by the Body (in this case, the Licensing and Regulatory Committee) which regulates or determines a function. Accordingly, this Committee is asked to address the policy issues around such licensing, in conjunction with the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act

1847, and make recommendations to the Council to update Waverley's policy regarding taxi and private hire licensing.

---

## **Introduction**

1. Waverley's Hackney Carriage and Private Hire Licensing Policy was adopted by the Council in July 2010 and the latest amendments were adopted and came into effect from 1 March 2016.
2. Since the introduction of the policy, Surrey Safeguarding Children Board (SSCB) and its partners, including all 11 Surrey local authorities, have agreed a Child Sexual Exploitation Strategy and action plan. The aims of the strategy are to develop a coordinated 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.
3. Achieving the targets helps to enable local authorities in Surrey to fulfil their statutory responsibilities defined in Section 11 of the Children's Act 2004; to safeguard children and 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.
4. Two actions identified within the CSE action plan relating to taxi and private hire are:
  - Adopting a consistent taxi and private hire convictions policy across Surrey; and
  - Mandatory CSE training for all taxi and private hire drivers in Surrey.
5. 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.

## **Consultation**

6. On 25 September 2017 the Licensing and Regulatory Committee considered the proposal to introduce the above policy changes. The Licensing and Regulatory Committee approved the proposed policy changes for the purpose of public consultation.
7. Reigate and Banstead Borough Council hosted a six week consultation on behalf of all 11 Surrey local authorities, from 23 October to 4 December 2017. Each local authority publicised the consultation and Waverley specifically:
  - Advertised the consultation on the council's website
  - Emailed all email registered private hire and taxi drivers inviting them to participate in the consultation; and
  - Invited the organisations below 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
8. As a result of the consultation, 396 responses were received and these have been analysed collectively, the details of which are set out at Annexe 1. Responses from the taxi and private hire trade and those who live, work or visit the county are presented separately for comparison purposes.
9. There has been a separate analysis of each local authority area with Waverley responses shown at Annexe 2.

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

10. 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.
11. The consultation results showed support across Surrey for the introduction of the convictions policy. 73% (69% of the taxi and private hire trade and 76% of those who live and work in the county) agreed 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'.
12. There was also strong support that people banned from working with children or vulnerable adults should not normally be granted a taxi or private hire licence. 87% (93% of those who live or work in Surrey and 78% of the Surrey taxi and private hire trade) were in agreement that it should be included in the policy.
13. Introducing this element in the policy removes the unacceptable risk which currently exists. Persons banned from working with children and vulnerable persons and not being permitted to drive under a Surrey County Council contract could potentially be granted a licence by a Surrey district or borough council.
14. Following analysis of all the consultation responses amendments have been made to the draft convictions policy. An overview of the responses to the consultation and detailed responses 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 five years, as consultation feedback highlighted the current standard is too low particularly compared with five 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'.

15. 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. 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.
16. A number of respondents felt that common assault is different from other offences in the ten 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.
17. The revised version of the convictions policy taking into account the consultation responses and proposed by all Surrey authorities is at Annexe 3. Annexe 4 is a version of the draft policy with the proposed amendments highlighted.
18. Prior to the policy being implemented training would be arranged for Licensing Officers, Solicitors and Licensing and Regulatory Committee Members to help ensure consistency of application.
19. 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.

20. In the future all 11 local authorities will aim to keep the convictions policy consistent across Surrey as guidance and best practice changes.

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

21. 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.
22. 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.
23. 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.
24. 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.
25. If approved, all Surrey local authorities are ready to implement an online training programme. This will be free for one year to all existing drivers. The training should 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.

### **Consultations**

26. Surrey Safeguarding Children Board has been involved throughout and endorses these proposals.
27. 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.

## **Human Rights Implications**

28. The Human Rights Act 1998 incorporated into English law the protection of human rights enshrined in the European Convention on Human Rights (ECHR). The Council must have regard to the human rights of individuals affected by its decisions. In determining applications for licences and in matters of enforcement, the council will have regard to Article 1 of the First Protocol of the ECHR (the right to the peaceful enjoyment of one's possessions), and Article 6 (the right to a fair trial). Existing licensees have a right to the peaceful enjoyment of their licence. However, this is a qualified right; a balance should be achieved between the protection of licence-holders' individual rights and the interest of the community.

## **Conclusion**

29. The Committee is asked to consider the proposed changes made to the Hackney Carriage and Private Hire Licensing Policy and make its recommendations for amending the policy to the Council.
30. Approving the consultation on the two changes regarding CSE training and the Convictions Policy to the Taxi and Private Hire Licensing Policy will help ensure a co-ordinated and consistent response across to prevent the sexual exploitation of children in Surrey.

## **Recommendation**

The Licensing and Regulatory Committee is asked to recommend to the Council that:

1. the revised Taxi and Private Hire Convictions Policy in Annexe 3 be adopted to replace the convictions policy (Annexe 2) of the Taxi and Private Hire Policy 2018-2023;
2. the requirement for all existing taxi and private hire drivers to undertake mandatory CSE training by 1 May 2019 be approved;
3. the requirement for all new taxi and private hire drivers to undertake mandatory CSE training from 11 April 2018 be approved; and
4. the Head of Policy and Governance be authorised, in consultation with the Chairman and Vice-Chairman of the Licensing and Regulatory Committee, to make such minor amendments to the Hackney Carriage and Private Hire Policy as may be required from time to time.

---

## **Background Papers**

Waverley Hackney Carriage and Private Hire Licensing Policy.

The sample Convictions Policy produced by the Local Government Association

<https://www.local.gov.uk/sites/default/files/documents/lga-example-taxi-and-priv-d6c.pdf>

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>

DFT Taxi and Private Hire Vehicle Licensing Best Practice

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212554/taxi-private-hire-licensing-guide.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf)

Rotherham BC Taxi Licensing and Private Hire policy documents -Appendix M - Hackney Carriage Vehicle

Conditions [http://www.rotherham.gov.uk/downloads/file/2486/appendix\\_m\\_hackney\\_carriage\\_vehicle\\_conditions](http://www.rotherham.gov.uk/downloads/file/2486/appendix_m_hackney_carriage_vehicle_conditions)

---

**CONTACT OFFICER:**

**Name:** Paul Hughes

**Telephone:** 01483 523189

**E-mail:** [paul.hughes@waverley.gov.uk](mailto:paul.hughes@waverley.gov.uk)