

 Executive 9th March 2016		Agenda Item No. <div style="text-align: center; font-size: 2em;">4</div>
Title		Hackney Carriage & Private Hire Drivers - Policy and Scheme of Delegation Changes
For further information about this report please contact		Marianne Rolfe, Regulatory Manager, Tel: 01926 456320 Email: marianne.rolfe@warwickdc.gov.uk
Wards of the District directly affected		All
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?		No
Date and meeting when issue was last considered and relevant minute number		17 th February 2016, Licensing & Regulatory committee. 9 th December 2015, Licensing & Regulatory committee
Background Papers		Report of inspection of Rotherham Metropolitan Borough Council dated February 2015 by Louise Casey CB. LGA Tackling child sexual exploitation – a resource pack for councils LGA Taxi and PHV licensing – Councillors Handbook.
Contrary to the policy framework:		No
Contrary to the budgetary framework:		No
Key Decision?		No
Included within the Forward Plan? (If yes include reference number)		No
Equality Impact Assessment Undertaken		Yes
Officer/Councillor Approval	Date	Name
Chief Executive	18/2/2016	Chris Elliott
Head of Service	18/2/2016	Richard Hall
CMT	18/2/2016	Chris Elliott Bill Hunt Andrew Jones
Section 151 Officer	18/2/2016	Mike Snow
Deputy Monitoring Officer	18/2/2016	Graham Leach
Portfolio Holder(s)	22/2/2016	Councillor Mrs Grainger
Legal	18/2/2016	Warwickshire Legal Services
Consultation & Community Engagement		
Discussions with the Driver and Operator Forum regarding the correct, most suitable and successful way to address the matters outlined in the report. In addition, discussions with Warwickshire Police, Warwickshire County Council and Public Health England.		
Final Decision?		No
Suggested next steps (if not final decision please set out below): Recommendations 2.2 and 2.4 are for referral to Council for consideration on 20 th April 2016		

1. **Summary**

- 1.1 This report seeks agreement to make changes to Council policies associated with Hackney Carriage Private Hire Drivers and Operators. The report also recommends changes to the scheme of delegation by Council.

2. **Recommendations**

- 2.1 Executive agrees that from 1st April 2016, a Hackney Carriage Private Hire Drivers' Licence (HCPH DL) will not be granted or renewed unless the driver can prove that they have undertaken a *Prevention of Child Sexual Exploitation* (CSE) training course provided by Warwick District Council's nominated trainer.
- 2.2 Subject to agreeing recommendation 2.1, Executive recommends to Council that it delegates to officers the power to refuse the licence of a person who fails or refuses to attend the prevention of CSE course.
- 2.3 Executive agrees that all Private Hire Operators (PHO) and call handlers employed by those PHO's must be trained in *Safeguarding* and that a condition to that effect is applied to a PHO licence renewal.
- 2.4 Executive recommends to Council that the decision to grant a PHO licence or HCPH DL of reduced duration is delegated to the Head of Health and Community Protection following consultation with the Chair/ Vice Chair of the Licensing and Regulatory Committee and a representative of Legal Services.
- 2.5 Executive reaffirms the Council's policy which requires a HCPH driver who has allowed their licence to lapse to retake the disability awareness course and that the wording of the policy is expanded as follows:

"Drivers who have allowed their licences to lapse and reapplied for HCPH drivers' licence are required to retake the disability awareness course.

"Failure to complete the disability awareness course is considered to be a very serious matter that impacts upon a person's fitness to be licenced. Completion of the course is mandatory. It is essential that all drivers licensed by Warwick District Council comply with the requirements of the Equalities Act 2010 and that people with disabilities, who often particularly rely on taxis, are not subject to discrimination. Current licence holders who fail to attend the course will be brought before the Licensing and Regulatory Committee for consideration of appropriate action."

3. **Reasons for the Recommendations**

- 3.1 After detailed discussion, the Licensing and Regulatory Committee has supported officer proposals that changes are made to Council policies and Officer Scheme of Delegation for matters relating to HCPH drivers and PHO's.
- 3.2 The primary role of the Licensing Authority is the protection, safety and wellbeing of the public. Through the introduction of a mandatory course in the Prevention of CSE, the authority can contribute to this role.
- 3.3 Throughout 2015 the Drivers and Operators Forum has been reviewing what can be done to spread the message of the 'Something's not right campaign' and have discussed during the Forum what would be the best method of increasing awareness of safeguarding.

- 3.4 The Drivers and Operators Forum are in full agreement that a course should be delivered and that it is an extremely important subject area. The forum has requested a compulsory course as they believe it is only way all drivers will attend.
- 3.5 From 1st April 2016, the recommendation is that attendance at a prevention of CSE course is made a compulsory requirement for all HCPH DL's.
- 3.6 A HCPH DL is 3 years in duration. If the mandatory requirement is introduced for all licence holders to undertake the course before their licence requires renewal, it would take until the end of 2019 to ensure that all drivers had been trained in prevention of CSE.
- 3.7 Therefore it is proposed that all licenced drivers must have attended the course by the 1st April 2016. There are currently 174 drivers who did not attend one of the free courses provided in January 2016.
- 3.8 Following a full and detailed discussion, the Licensing and Regulatory Committee strongly supported:
- The introduction of a mandatory prevention of CSE course run by our nominated provider with a requirement for all HCPH drivers to attend;
 - The introduction of a condition on the PHO Licence to ensure that staff employed by a PHO are trained in the prevention of CSE.
- 3.9 The alteration to the Scheme of Delegation to enable officers to refuse an application or renewal of licence to drivers who fail to undertake the prevention of CSE course will contribute to the protection of children. The alteration of the conditions for an operator's licence and the introduction of a mandatory course on the prevention of CSE for HCPH drivers will bring Warwick District Council in line with good practice being demonstrated in HCPH licensing around the country.
- 3.10 Due to a change in legislation there has been an increase in the statutory duration of a PHO's licence. However, there is a provision within the legislation that allows for the granting of a reduced duration of licence after consideration of individual circumstances. Licensing and Regulatory Committee has recommended that the scheme of delegation is altered to allow an officer decision to be made following consultation with the Chair/ Vice Chair of the Licensing and Regulatory Committee and a representative of Legal Services to prevent the undue delay of the processing of an existing operator's application.
- 3.11 The Licensing and Regulatory Committee has asked that Executive reaffirm the current policy which states that a HCPH driver who has allowed their licence to lapse is required to retake the disability awareness course and for the insertion of wording to make clear that failing to undertake the course raises questions regarding a person's suitability to be licenced.

4.1 **Policy Framework**

- 4.1.1 The introduction of mandatory training for HCPH drivers and the imposition of the condition on PHO's will support the Council's priorities with regard to children who are/may be subject to sexual exploitation and the safeguarding of other vulnerable persons.

- 4.1.2 The reaffirmation of the current policy with regard to disability awareness training highlights the Council's commitment to comply with the requirements of the Equalities Act 2010 and to prevent the discrimination of persons with disabilities from using hackney carriage or private hire services.

4.2 Fit for the Future

- 4.2.1 The introduction of mandatory training for safeguarding and the confirmation of the Council's commitment to ensure services are accessible to all promote the benefits of living and working in Warwick District and will contribute to making Warwick a great place to live, work or visit.
- 4.2.2 The initiatives are consistent within the health and wellbeing and safer communities themes within the Sustainable Community Strategy.

4.3 Impact Assessments

- 4.3.1 An equality impact assessment has been completed which highlights the positive impacts of the introduction of mandatory safeguarding training. There are no negative impacts identified on protected characteristics.
- 4.3.2 A review of the equality impact assessment for the disability awareness course has also been conducted. There are no negative impacts identified on protected characteristics.

5. Budgetary Framework

- 5.1 From 1st April 2016, the prevention of CSE courses will be paid for by the drivers/applicants directly to the nominated course provider. The evidence of course attendance forms part of the application process and therefore has no financial impact on the Council.
- 5.2 The courses will have a minimal impact upon officer time as the procedures for organising the courses have been created, as has the organisation paperwork and the intention is to continue to use the same training provider.
- 5.3 The disability awareness course fee is paid directly to the training provider by the applicant/licence holder.

6. Risks

- 6.1 By putting the proposed policy changes in place, Warwick District Council reduces the potential for reputational damage caused should a case of CSE be exposed within its administrative boundaries. It should be made clear, however, that the policy changes cannot entirely extinguish the risk of such a case occurring.

7. Alternative Option(s) considered

- 7.1 That the safeguarding training is voluntary only and is not introduced as a requirement of the hackney carriage private hire driver licence application process:
- 7.2 Six free courses have been organised and promoted and yet only 64% of the currently licenced drivers have attended. There were sufficient places provided for all of the licenced drivers to attend. If the courses were not made

mandatory, officers believe that this attendance rate would drop until there was no attendance. Therefore this is not recommended as a suitable alternative option; and

- 7.3 Failing to introduce suitable training in this subject area may leave the Council open to criticism and significant challenge in the event of an incident occurring.

8. Prevention of CSE

- 8.1 In a report on inspection of Rotherham Metropolitan Borough Council (RMBC) by Louise Casey dated February 2015, inspectors considered whether RMBC took and continued to take sufficient steps to ensure that only fit and proper persons were permitted to hold a taxi licence. Inspectors concluded that this was not the case and one of the issues identified was that communication between the Licencing Authority, the police and children's safeguarding was not sufficient and that CSE had 'not been given the priority and visibility it required'.
- 8.2 The Rotherham report highlighted that as the safety of the public should be of the utmost concern of any licencing and enforcement regime and that 'there is nowhere more important than in taxi licensing where sometimes vulnerable people are unaccompanied in a car with a stranger'.
- 8.3 Licensing Officers and the Drivers and Operators Forum would like to introduce a mandatory CSE training course into the requirements for an applicant to undertake prior to a HCPH driver's licence being granted and to require all current HCPH drivers licenced with Warwick District Council to undertaken this course.
- 8.4 Warwickshire Police and Barnardos have been working with Licensing Officers to identify methods and approaches to increase awareness of CSE and ensure that all licence holders are helping to protect our vulnerable members of society.
- 8.5 In order to identify the existing will within the trade for such a course, six free of charge prevention of CSE training events were provided in January 2016. These were allocated to existing drivers on first come first served basis. 314 of the existing 488 licenced drivers attended the voluntary training courses. (64%)
- 8.6 The aim of the course was to raise awareness. Licenced drivers can often be first on a scene, at the request of a hiring, collecting victims of various types of criminal activity and taking them to places they request. If HCPH drivers can be trained to look out for the signs of potential CSE and know where to report their concerns, they can help stop vulnerable persons being exploited.
- 8.7 The course covered;
- Safeguarding children and vulnerable persons
 - Legislation with regards to Human Trafficking
 - Making referrals
 - Signposting to relevant agencies
- 8.8 The training courses were delivered by Barnardos CSE Service in line with a request from the Drivers and Operators Forum. The Forum believed that the message would be more readily accepted by the HCPH drivers from a charity

organisation working in the field. This has proved to be effective in the course on disability awareness delivered by the Guide Dogs for the Blind Association.

- 8.9 Ongoing courses are being organised with Barnardos to be of a suitable frequency to allow new applicants to attend the course and avert delays to their application. These courses would be attended at the driver's expense in line with other requirements such as the Disability Awareness, Driver Standards Agency Test and Knowledge Test.
- 8.10 The proposals further strengthen this Council's commitment to 'Something's not right' initiative, championed by the Warwickshire Safeguarding Children Board which aims to raise awareness of, and effectively tackle CSE within the county. The Member Children's Champions, Councillors Gallagher and Falp have strongly supported the Council's involvement in this initiative and fully support these proposals.

9.0 **Scheme of Delegation changes**

- 9.1 On 6th April 2015, the Deregulation Act came into force. This implemented a number of changes to the licensing regimes of a number of licence types including the statutory duration of licences for hackney carriage private hire drivers and private hire operators.
- 9.2 Warwick District Council HCPH DL is issued for a period of three years. In line with the new statutory duration lesser periods can be specified by the Council upon consideration of the case.
- 9.3 Warwick District Council PHO Licences were issued for the duration of one year. Legislation now requires a PHO licence to have duration of five years or for a lesser period specified in the licence as the Council considers appropriate in the circumstances of the case.
- 9.4 The Driver and Operators Forum welcome the increased licence duration and recognised that this would result in an increased fee. However, they have indicated that the majority of the PHO applicants will request consideration of a reduced duration of their licence in order to reduce the fee payable. This would result in the need for a large increase in applications requiring hearings.
- 9.5 Unfortunately, a policy-wide reduction in licence duration is not permissible under the legislation. Each application will need to be considered upon its merits.
- 9.6 The assessment of an application for a licence reduction is in the main to be an administrative process. It is believed that it would be a more efficient and effective use of resources to delegate licence duration reduction decisions to the Head of Service in consultation with the Chair/Vice Chair of Licensing and Regulatory Committee.

10 **Disability Awareness course:**

- 10.1 In order to comply with the Equality Act and its predecessor (the Disability Discrimination Act 1995), from early 2007 all drivers were required to attend a Disability Awareness Course as part of their application process.

- 10.2 In December 2014 the requirement was amended to state that all new applicants would be required to take the Disability Awareness Course prior to a licence being issued.
- 10.3 Whilst this training course is not directly a condition upon their licence it is part of the application process and therefore part of establishing if an applicant is 'fit and proper'
- 10.4 The Council has nominated the Guide Dogs for the Blind in Leamington Spa to deliver the Disability Awareness Course. The course covers:
- Wheelchair Users
 - Ambulant Disabled
 - Visually Impaired passengers
 - Hearing Impaired passengers
 - Mental Health, Autism and Dementia
- 10.5 The Licensing and Regulatory Committee has requested that Executive reaffirms the current policy which outlines that a driver who has held a licence with Warwick District Council but allowed it to lapse before reapplying is treated in exactly the same manner as a new driver. The re-applying driver must submit an application form, two recent photographs, medical assessment, evidence that the Driving Standards Agency Hackney Carriage Private Hire Drivers Test has been taken, Disclosure and Barring Service (DBS) application and subsequently the DBS certificate; retake the Knowledge Test and the Disability Awareness Course.
- 10.6 The Licensing and Regulatory Committee would also request that a clear steer is included into the policy which outlines the seriousness with which the council views attendance upon the disability awareness course.