

Licensing Committee

11th June 2015

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Implications for the Licensing Partnership following the Report of Inspection of Rotherham Metropolitan Borough Council by Louise Cassey CB – February

Final Decision-Maker	Licensing Committee
Lead Director or Head of Service	John Littlemore
Lead Officer and Report Author	Claire Perry
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. The Committee agrees to implement the proposed actions contained within the report.

This report relates to the following corporate priorities:

- Great People
- Great Place
- Great Opportunity

Timetable – *N/A*

Meeting	Date
Policy and Resources Committee	N/A
Council	N/A
Other Committee	N/A

Implications for the Licensing Partnership following the Report of Inspection of Rotherham Metropolitan Borough Council by Louise Cassey CB – February

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Following the publication of the report by Louise Cassey CB this report examines how the findings relate to taxi and private hire licensing and considers the issue of safeguarding children in the light of lessons learned from Rotherham.

2. INTRODUCTION AND BACKGROUND

2.1 Louise Cassey was appointed by the Government to investigate how well Rotherham Metropolitan Borough Council was performing following the uncovering of widespread child sexual exploitation. Louise Cassey reported that Rotherham Metropolitan Borough Council [RMBC] was an authority in denial and 'not fit for purpose'. Part of Louise Cassey's report highlighted shortcomings in the taxi and private hire licensing service. This report is intended to examine what were reported as shortcomings in Rotherham's taxi and private hire licensing service and ensure that this Council's Licensing Partnership has measures in place to minimise similar events and errors of judgement exhibited by officers and councillors associated with the service.

2.2 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. Covering the periods of 1997-2009 and 2009 - 2013, it looked at how Rotherham Metropolitan Borough Council's (RMBC) Children's Services dealt with child sexual exploitation cases.

2.3 Following on from this inquiry on the 10th September 2014, the Secretary of State appointed Louise Casey CB under section 10 of the Local Government Act 1999 to carry out an inspection of the compliance of Rotherham Metropolitan Borough Council with the requirements of Part 1 of that Act, in relation to the Council's exercise of its functions on governance, children and young people, and taxi and private hire licensing.

2.4 The investigations revealed:

- a council in denial about serious and on-going safeguarding failures;
- an archaic culture of sexism, bullying and discomfort around race;
- failure to address past weaknesses, in particular in Children's Social Care;
- weak and ineffective arrangements for taxi and private hire licensing which leave the public at risk;
- ineffective leadership and management, including political leadership;
- no shared vision, a partial management team and ineffective liaison with partners;

- a culture of covering up uncomfortable truths, silencing whistle-blowers and paying off staff rather than dealing with difficult issues.
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3. ISSUES WITHIN THE ROTHERHAM REPORT SPECIFICALLY RELATED TO TAXI AND PRIVATE HIRE LICENSING

3.1 RMBC – A divided service

3.2 The review of Rotherham's licensing service portfolio found that it covered eight other licensing functions including gambling, alcohol and licensed takeaways. The taxi service was divided into two branches:

- the Policy team dealt with policy, applications, renewals, suspensions and revocations
- The Enforcement team dealt with complaints and investigations

3.3 Splitting these functions is not common in other licensing authorities. Inspectors found evidence of conflict between the two branches, notably on what kind of evidence could be presented when the Licensing Board met to consider whether to revoke or suspend a licence.

3.4 The two branches of licensing used different databases which did not interface, so information was not easily shared between the separate Policy and Enforcement teams. This meant that driver or operator records could not be viewed in a single place, requiring officers to request information from each other that sometimes resulted in a licence being renewed without question when in fact the driver was being investigated following a complaint.

3.5 Inspectors found that enforcement staff did not always record complaints or information gathered on these data systems. This inconsistent recording of information about complaints resulted in data on driver performance and conduct not being collected, trends were not identified and the track record of individual drivers (for example identifying a series of complaints) may not have been available at the point of licence renewal.

3.6 Meetings were rarely held across the two parts of the service and some officers said that the visibility of senior leaders was poor. One officer stated that they had seen them for the first time at a briefing meeting shortly before Inspectors arrived.

3.7 **Licensing Partnership Maidstone, Sevenoaks & Tunbridge Wells:** Despite operating across three offices the Licensing Partnership works as one team with messages and direction delivered to all staff. Policies are consistent where appropriate and are available to all staff. The service manager ensures that the processing of applications, investigation of complaints, and compliance work is carried out in a consistent manner across the three authorities.

- 3.8 A single shared database is utilised for all members of the team and fully accessible to everyone within the Licensing Partnership and in appropriate circumstance to specific external partners, such as the Police.
- 3.9 **Proposed Action** – The partnership should further develop the ‘Service Request’ module of the Licensing Uniform software to be able to record complaints independently from the taxi driver/vehicle/operator/premises record and then link the individual service request to the appropriate record. Currently, complaints are recorded in the IVA screen for the record but can be difficult to find within the record for the driver/vehicle/operator or premises.
- 3.10 **RMBC – Lack of Policy**
- 3.11 Inspectors found that RMBC was not fit for purpose as the licensing service appeared to have few written policies and attempts to adopt new policies had been stymied by interested parties. Inspectors found that the Council’s bye-laws and conditions relating to vehicle, taxi driver and operator licences had not changed since 1976, supporting the view that policies were inadequate.
- 3.12 **Licensing Partnership Maidstone, Sevenoaks & Tunbridge Wells:** Maidstone Borough Council is the only authority within the Partnership that does not currently have a single policy document bringing together all the policy decisions. However, the authority has already taken steps to address this and the Taxi and Private Hire Policy is currently being consulted on with the trade, members of the public and other interested parties. Two meetings have been arranged to engage in direct consultation with a wide range of consultees.
- 3.13 Sevenoaks District Council is currently drafting its revised policy and will be following the Maidstone policy as closely as possible to achieve the greater harmonisation objective that is part of the Service Plan for the partnership. They will also be engaging in a similar exercise for the consultation process.
- 3.14 Tunbridge Wells Borough Council has a policy in place which has seen a number of challenges and revisions during the past two and a half years since its publication and is due to be revised in 2016.
- 3.15 **Proposed action** - The Partnership has an objective to seek greater harmonisation where appropriate and there remains further work to be undertaken. It would be preferable for the three policies to be further aligned to help reduce the risk of human error in processing applications and for the policies to meet the recommendations made in the Law Commission’s report, for example moving to 5 year Private Hire Operator Licences. Proposals to enable this to happen will be presented to the Committees at each authority.
- 3.16 Currently the Maidstone Borough Council and Sevenoaks District Council policies are being drafted alongside one another to achieve further harmonisation. In some cases this will not be possible. For example all Maidstone Hackney Carriage vehicles are wheelchair accessible whereas this is not the case for Sevenoaks District Council. However, proposals will be inserted into the Sevenoaks policy to move towards more wheelchair accessible vehicles.

3.17 RMBC – Trade influence and role of Members

- 3.18 Inspectors heard testimony that the private hire trade in Rotherham is both vocal and demanding, which resulted in some officers expressing the view that the licensing service seemed more geared towards facilitating the trade than protecting the public.
- 3.19 Some elected members added to this pressure in support of the trade. Some councillors who had previously held taxi licences or ‘badges’ sat on the Licensing Board. At one point, the Board had been reluctant to hear any cases not related to matters showing up on DBS checks. That meant that when there were no actual convictions the Board would not suspend or revoke licences.
- 3.20 Licensing officers reported to Inspectors that they had received phone calls from elected members over perceived delays in the processing of individual applications. Officers would be urged to ‘stop wasting time’. This resulted in licences being granted without the full checks having been completed.
- 3.21 There are instances of elected members making representations on behalf of the trade or individual drivers. For example, one Councillor wrote to the Crown Court offering a reference on behalf of a driver who had his licence revoked. In addition the practice of vehicle spot checks without prior notice was changed to ‘10-day notice’ checks after representations from the trade and following the intervention of an elected member.
- 3.22 **Licensing Partnership Maidstone, Sevenoaks & Tunbridge Wells:** All three authorities engage with the trade but there is no evidence that undue influence is exerted on staff or Licensing Committee members; or that elected members are applying pressure on staff to make inappropriate decisions in support of the taxi trade. A peer review of Maidstone’s Licensing function by the LGA did not raise any concerns around the activity of elected members or the trade in unduly influencing officers carrying out their duties
- 3.23 Training is carried out every year for new Members and also there is refresher training for the existing Members.
- 3.24 All staff have monthly 1:1 meetings where workload is discussed and if there is an issue regarding workload it is addressed.

3.25 RMBC - Complaints and investigations

- 3.26 The report highlighted major concerns over the licensing service’s ability to undertake thorough investigations giving rise to a perception of undue weight being given to the need to protect drivers' livelihoods over and above that of public safety.
- 3.27 **Licensing Partnership Maidstone, Sevenoaks & Tunbridge Wells:** All complaints are thoroughly investigated in accordance with the Kent and Medway Licensing Compliance and Enforcement Protocol and these investigations include liaison with partners including the Police and Kent County

Council where there is a contract for a 'school run'. Where possible investigations are made following anonymous complaints, however without the ability to follow up on receipt of information by their nature these investigations are limited.

3.28 The Licensing Partnership represents some of the few authorities in Kent that participate in Operation Coachman. This is a joint compliance operation that takes place 2 to 3 times a year with KCC transport service (the authority responsible for managing and awarding contracts for school transportation), the Police vehicle inspection unit and VOSA. These operations enable the authorities to ensure compliance with the Licensing Policies but also provide the ability to follow up on complaint allegations.

3.29 **Proposed Action** – It is managers' current practice to discuss complaint investigations at 1:1 meetings with staff but following the recommendations made by Louise Casey's team it is proposed to ensure all members of staff are reminded to record complaints and also to ensure that all discussions regarding the investigation of complaints are documented and shared. More generally this issue will also be incorporated into the wider review of the Council's safeguarding policy.

3.30 RMBC – Pressure on staff

3.31 There was an issue regarding long term sickness at RMBC within the enforcement team and unresolved contractual arrangements which meant that there was little enforcement on taxis particularly around the night time economy.

3.32 **Licensing Partnership Maidstone, Sevenoaks & Tunbridge Wells:** Compliance and enforcement is carried out at all three authorities including during the evening. Maidstone officers target their work from midnight to 3 am to ensure the busy night time economy is covered, as this is a time period where risk is increased due to the intoxicated condition of some visitors to Maidstone's town centre.

All checks are recorded and follow up letters/action is taken as appropriate.

In addition to the points raised above the following should be considered:

- Below is an excerpt from the driver licence application form that all new and renewal drivers must complete. The same information is requested for Private Hire Operators. The complete application form is attached in Appendix I.

Have you ever been convicted during the past three years of any motoring offence?	
Yes <input type="checkbox"/>	No <input type="checkbox"/>
Are you disqualified by any Court from holding or obtaining a driving licence?	
Yes <input type="checkbox"/>	No <input type="checkbox"/>
<i>If you have seven or more penalty points on your driving licence your application may be refused; it will depend upon the nature of the offences.</i>	
Have you ever held a Hackney Carriage or Private Hire Driver's licence	
Yes <input type="checkbox"/>	No <input type="checkbox"/>

If "yes" which Authority was it with? _____		
Badge number: _____		
If "yes" indicate which of the following is applicable:		
Current	<input type="checkbox"/>	Revoked <input type="checkbox"/> Suspended <input type="checkbox"/> Expired <input type="checkbox"/> Surrendered <input type="checkbox"/>
In any instance of a licence being held which type		
Hackney Carriage	<input type="checkbox"/>	Private Hire <input type="checkbox"/> Dual <input type="checkbox"/>

3.33 If any of the sections highlighted in yellow are completed as "yes" the application is referred to the Licensing Officer for further enquiries to be made to ensure the Licensing Officer is satisfied the applicant is a 'fit and proper' person.

- All applicants (new and renewal) are required to undertake an Enhanced Disclosure Barring Service search. Currently this is every 4 years at Maidstone but there is a proposal within the Taxi and Private Hire policy to bring this process in line with the other authorities within the Licensing Partnership to carrying out the search on renewal (every 3 years).
- Details of an applicant are shared with Officers within Her Majesty's Immigration Service to ensure applicants have a right to work in the country.
- Applicants are advised on making their application that their details will be shared with other agencies to prevent and detect fraud.
- Members of staff within the Licensing Partnership have undertaken safe guarding training.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The council should review its policy and practice with regard to taxi and private hire licensing following the report carried out by Louise Casey and her team into the activities at Rotherham Metropolitan Council. The alternative is not to carry out a review but this could lead to the same serious failings that were highlighted in Rotherham.

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

5.1 The actions proposed in this report will be incorporated into the action plan already adopted by the Licensing Committee following the LGA peer review.

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
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Impact on Corporate Priorities	Safe guarding training	Head of Service
Risk Management	Contained in the body of the report	Head of Shared Audit Service
Financial	There are no significant financial implications arising from this report.	Section 151 Officer
Staffing	Training implications noted in the report	
Legal	Noted within the report	Head of Legal Services
Equality Impact Needs Assessment		
Environmental/Sustainable Development		
Community Safety	Contained in the body of the report	
Human Rights Act		
Procurement		
Asset Management		

7. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix I: Driver Licence application form

8. BACKGROUND PAPERS

Report of Inspection Rotherham Metropolitan Borough Council - https://www.gov.uk/.../46966_Report_of_Inspection_of_Rotherham_WEB.pdf