



North Tyneside Council

Regulation and Review Committee

18 October 2017

Thursday 26 October 2017 Room 0.02, Council Chamber, Quadrant, The Silverlink North, Cobalt Business Park, North Tyneside **commencing at 6.00pm**

Agenda Item	Page
1. Apologies for Absence	
To receive apologies for absence from the meeting	
2. Appointment of Substitute Members	
To be notified of the appointment of any Substitute Members.	
3. To Receive any Declarations of Interest and Notification of any Dispensations Granted	
You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.	
Please complete the Declarations of Interests card available at the meeting and return it to the Democratic Services Officer before leaving the meeting.	
You are also invited to disclose any dispensation from the requirement to declare any registerable and/or non-registerable interests that have been granted to you in respect of any matters appearing on the agenda.	

Members of the public are entitled to attend this meeting and receive information about it.

North Tyneside Council wants to make it easier for you to get hold of the information you need. We are able to provide our documents in alternative formats including Braille, audiotape, large print and alternative languages.

For further information please call 0191 643 5316.

Agenda Item	Page
<p>4. Minutes</p> <p>To note the minutes of the Panel meetings held on 11 July, 24 August, 14 September and 12 October 2017 and to confirm the minutes of the Committee meeting held on 13 July 2017.</p>	<p>3</p>
<p>5. Annual Review of the Council Policy on Covert Surveillance</p> <p>To consider a report which sets out the results of the review of the Council's policy on covert surveillance.</p>	<p>24</p>
<p>6. Amendments to the North Tyneside Council Hackney Carriage and Private Hire Licensing Policy</p> <p>To consider proposed amendments to the North Tyneside Council Hackney Carriage and Private Hire Licensing Policy in relation to training for sexual exploitation.</p>	<p>40</p>

To All Members of the Regulation and Review Committee

Councillor Anne Arkle	Councillor Pam McIntyre
Councillor Debbie Cox	Councillor Dave McMeekan
Councillor Peter Earley (Chair)	Councillor Les Miller
Councillor John Hunter (Deputy Chair)	Councillor Tommy Mulvenna
Councillor Marian Huscroft	Councillor Kate Osborne
Councillor Frank Lott	Councillor John O'Shea
Councillor Wendy Lott	Councillor Norman Percy
Councillor Gary Madden	Councillor Margaret Reynolds
Councillor Maureen Madden	Councillor Lesley Spillard

Regulation and Review Committee Panel

11 July 2017

Present: Councillor P Earley (Chair)
Councillor John Hunter, M Madden, K Osborne and J O'Shea

RQ11/07/17 Apologies for Absence

No apologies for absence were received.

RQ12/07/17 Declarations of Interest and Dispensations

Councillor P Earley declared that he had a personal non-registerable interest in Item 6 (minute RQ16/07/17) as the referred driver was a member of his Labour Party branch. In light of the fact that Councillor Earley was facing re-selection in a few weeks time he would leave the room for the consideration of this matter and take no part in the decision making to avoid any accusation of bias.

Councillors John Hunter, M Madden, K Osborne and J O'Shea all declared that they had an open mind on the matter and would take their decision based on the information presented to them and in the interest of all the residents of the borough.

RQ13/07/17 Exclusion Resolution

Resolved that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

RQ14/07/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a combined hackney carriage/private hire driver's licence driver, Mr A, whose licence had been suspended and had requested its re-instatement.

The Committee was requested to assess Mr A's continued suitability to carry out the duties of a licensed driver and determine whether to reinstate his licence, extend the suspension period or revoke the licence.

A Licensing Officer, representatives from Northumbria Police and Mr A attended the meeting.

The Licensing Officer presented the report and then representatives from Northumbria Police made a statement. Members of the Committee then asked questions.

Mr A then addressed the Committee. Members of the Committee asked questions of Mr A and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr A, all parties left the meeting room to enable consideration of the matter to be undertaken in private.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7, section B, which makes reference to conduct.

Taking all that had been presented to the Committee and contained within the papers submitted to the meeting, the Committee determined that Mr A's licence should be revoked with immediate effect on the grounds of public safety as it could not be satisfied that he remained a fit and proper person to hold a licence.

The overriding consideration of the licensing regime was the safety of the public. The Council had a duty to ensure that, as far as possible, those licensed to drive the public in hackney carriage or private hire vehicles are suitable persons to do so, are safe drivers with a good driving record, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their position to abuse or assault customers. The Committee determined that the behaviour detailed in the report and the actions of the Courts meant that Mr A no longer met that standard.

Resolved that Mr A's combined hackney carriage/private hire driver's licence be revoked with immediate effect in the interests of public safety as the Committee was no longer satisfied that he was a fit and proper person to hold such a licence.

RQ15/07/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a combined hackney carriage/private hire driver's licence driver, Mr A.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr A's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr A, accompanied by a friend, Mr D, attended the meeting.

The Licensing Officer presented the report and Members of the Committee asked questions.

Mr A then addressed the Committee, assisted by Mr D. Members of the Committee asked questions of Mr A and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr A, all parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7, section B, which makes reference to conduct.

Taking all that had been presented to the Committee and contained within the papers submitted to the meeting, the Committee determined that Mr A's licence should be suspended for a period of four weeks.

The Committee considered all options available to it and determined that due to the circumstances of the case, a suspension of four weeks was the most appropriate sanction as it was an effective way of giving Mr A time to reflect and would be a sufficient deterrent to prevent a repeat in the future.

Resolved that Mr A's combined hackney carriage/private hire driver's licence be suspended for a period of four weeks.

RQ16/07/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral

Prior to the consideration of this report Councillor P Earley vacated the Chair and left the meeting room as he had a personal non-registerable interest in the matter. As Deputy Chair, Councillor John Hunter assumed the Chair.

[Councillor John Hunter in the Chair]

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a combined hackney carriage/private hire driver's licence driver, Mr G.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr G's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr G attended the meeting.

The Licensing Officer presented the report and Members of the Committee asked questions.

Mr G then addressed the Committee. Members of the Committee asked questions of Mr G and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr G they both left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7, section B, which makes reference to conduct.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it. Taking all that had been presented to the Committee and contained within the papers submitted to the meeting and the circumstances of the case, the Committee determined that, on this occasion, there was sufficient reason to use its discretion and depart from the Policy and issue a warning. A warning was the most appropriate sanction and would be sufficient deterrent to avoid repetition.

Resolved that Mr G be issued with a written warning and be reminded of the responsibilities which come with holding a combined hackney carriage and private hire drivers licence.

RQ17/07/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral

Prior to the consideration of this matter Councillor P Earley returned to the meeting room and resumed the Chair for the meeting.

[Councillor P Earley in the Chair]

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a combined hackney carriage/private hire driver's licence driver, Mr U.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr U's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr U, accompanied by his partner, Ms F, attended the meeting.

The Licensing Officer presented the report and Members of the Committee asked questions.

Mr U then addressed the Committee. Members of the Committee asked questions of Mr U and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr U all parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7, section B, which makes reference to conduct.

Taking all that had been presented to the Committee and contained within the papers submitted to the meeting, the Committee determined that Mr U's licence should be suspended for a period of four weeks.

The Committee considered all options available to it and determined that a suspension of four weeks was the most appropriate option as it was an effective way of prompting Mr U to consider the reasons for his referral and would be sufficient deterrent to avoid repetition.

Resolved that Mr U's combined hackney carriage/private hire driver's licence be suspended for a period of four weeks.

Regulation and Review Committee

13 July 2017

Present: Councillor P Earley (Chair)
Councillors D Cox, M A Green, John Hunter, F Lott,
W Lott, M Madden, D McMeekan, T Mulvenna, K Osborne,
A Percy and L Spillard.

RQ18/07/17 Apologies

Apologies for absence were submitted on behalf of Councillors J Allan, A Arkle, J O'Shea and M Reynolds.

RQ19/07/17 Substitute Members

Pursuant to the Council's Constitution the appointment of the following substitute member was reported:

Councillor M A Green for Councillor J O'Shea.

RQ20/07/17 Declarations of Interest

Councillor John Hunter declared a non-registerable personal interest in minute PQ23/07/17 Proposed Online Child Sexual Exploitation Awareness training for new and existing hackney carriage and private hire licensed drivers as his son was a taxi driver licensed by North Tyneside Council. Councillor Hunter informed the committee that he would leave the meeting for the discussion on this matter.

RQ21/07/17 Minutes

Resolved that the minutes of the meeting held on 29 June 2017 be approved and signed by the Chair.

PQ22/07/17 Corporate Complaints Annual Report

At its annual meeting in May 2016 Council agreed to move the responsibilities of Appeals and Complaints Committee to the Regulation and Review Committee (minute C13/05/16). These included the responsibility to consider and determine the Authority's final response to all complaints referred to it under stage three of the Corporate Complaints Procedure.

The Committee received a report updating it on the response by the appropriate service area to recommendations made by the Committee with regard to the three corporate complaints heard by the Committee in the 2016/17 municipal year. The Senior Manager Customer, Members, Governor and Registration Services attended the meeting to present

the report.

In September 2016 the Committee heard its first stage three corporate complaint in relation to the Special Guardianship allowance paid to the complainant, this was responded to by the Fostering and Adoption Service. In response to the complaint the Committee made five recommendations which related to the calculation of and the process undertaken to calculate a Special Guardianship Allowance with a deadline for implementation by 1 December 2016. Other recommendations related to access to the Head of Service, compensation payments and a review of how case law was received and assessed in a timely manner.

In response to the Committee's recommendations the compensation payments had been made, the process for reviewing case law and implementing any necessary changes had been reviewed and Members were assured that officers dealing with urgent issues were able to discuss these directly with the Head of Service at all times. The proposed new financial assessment process for all Special Guardians was still not in place due to 'considering the advice of counsel with a view to making decisions regarding a new financial assessment process'.

The Committee, in particular Members who had heard the complaint and determined the recommendations, expressed disappointment and concern that the recommendation relating to the financial assessment process had not been implemented ten months after it had been made and seven months since the deadline set by the Committee for its implementation had passed.

The Senior Manager Customer, Members, Governor and Registration Services, not being part of the service area in question, was unable to provide any further information to the Members other than to state that it was a complex case and work was progressing with a report expected to be submitted to Cabinet in September 2017.

Members requested the Chair of the Committee write to the Head of Health, Education, Care and Safeguarding seeking an explanation as to what process was currently being used; the timeline of events since the complaint had been heard; and when the proposed new process might be in place.

In April 2017 the Committee heard its second stage three corporate complaint which was a complaint against the Housing Service regarding the service's action in response to the complainant's complaints about a neighbour's hoarding. In response to the complaint the Committee made three recommendations which related to issuing Notices to the tenant regarding the location of her possessions and the risk they posed and for an adjustment to the front door to the property to ensure it closed automatically and could only be opened from the outside with a key.

The Committee was informed that Housing Services had given notice to the tenant requiring the removal of items stored in communal areas. However, after seeking further advice, officers had been informed that the Authority would be unable to clear the items itself without a warrant from the court, which was unlikely to be granted. Officers were continuing to support and work with the tenant to enable them to clear their possessions themselves and progress had been made.

The Committee was pleased to note that recommendation regarding the front door had been accepted and implemented.

13 July 2017

The Committee, in particular those Members who heard the complaint and determined the recommendations, expressed grave concern that the tenant was still in breach of their tenancy agreement and still posed a fire risk to themselves and their neighbours, particularly in light of the recent terrible fire and tragic loss of life in Grenfell Tower, London.

It was noted by the Committee that the complainant had been advised to go to the Housing Ombudsman but it considered that this was an unsatisfactory response by the Authority to the situation.

Members requested the Chair of the Committee write to the Head of Environment, Housing and Leisure seeking a full explanation as to why the Authority had not sought a warrant for authority to remove the tenant's possessions which were breaching their tenancy agreement and causing a fire risk; the latest advice and opinion from the Tyne and Wear Fire and Rescue Service on the risk to the tenant, their property and their neighbours' of a fire at the property; and reassurance that the Action Plan seen at the meeting in April was being implemented.

In May 2017 the Committee heard its third stage three corporate complaint which was against Environmental Health - Consumer Protection Group in relation to the approach the Authority had taken to manage issues regarding a privately owned first floor property situated above a property owned by the complainant, who believed that the approach taken delayed action that had directly effected him financially.

Whilst the Committee determined that the Authority had met all its statutory duties in relation to the matter it did recommend that within reasonable cost and using all relevant legislation, the Authority aid every attempt to bring the privately owned property situated above the complainant's property into use at the earliest opportunity.

In response to this recommendation it was clarified that the Authority had no power to enforce a sale of the property. The property was being treated as an 'address of concern' within the Borough and an Action Plan to tackle the property was to be devised by officers from Environmental Health. The Authority would continue to attempt to reach a voluntary agreement with the owner in relation to accessing assistance through the Authority's repair and manage scheme.

The Head of Environment, Housing and Leisure currently had the delegated authority in relation to Empty Dwelling Management Orders (EDMO) under section 132 of the Housing Act 2004. The use of such an order was taken as a "last resort" as there were a number of qualifying criteria including that the dwelling must have been wholly unoccupied for at least two years and there be no reasonable prospect that the dwelling would become occupied in the near future. For the purpose of presenting evidence to the Residential Property Tribunal the date for consideration was the 14th July 2016. This meant that consideration for the use of EDMO would not be taken until July 2018. The Authority might consider the use of an EDMO at this time should the other qualifying criteria also be met.

The Chair of the Committee thanked the Senior Manager Customer, Members, Governor and Registration Services for her report and attendance at the meeting.

Resolved that (1) the updated information relating to the stage three corporate complaints heard by the Committee be noted and the implementation of some of the Regulation and Review Committee's recommendations be welcomed;
(2) the Chair of the Committee write to the Head of Health, Education, Care and

Safeguarding to seek an explanation as to what process was currently being used for the calculation of Special Guardianship Allowances; the timeline of events since the complaint had been heard; and when the proposed new process might be in place; and
(3) the Chair of the Committee write to the Head of Environment, Housing and Leisure to seek a full explanation as to why the Authority had not sought a warrant to grant it authority to remove the tenant's possessions which were breaching their tenancy agreement and causing a fire risk; the latest advice and opinion from the Tyne and Wear Fire and Rescue Service on the risk to the tenant, their property and their neighbours' of a fire at the property; and reassurance that the Action Plan seen at the meeting in April was being implemented.

**PQ23/07/17 Proposed Online Child Sexual Exploitation Awareness training for new and existing hackney carriage and private hire licensed drivers.
(Previous minute RQ71/04/17)**

(Prior to the consideration of this matter Councillor John Hunter left the room and took no further part in the meeting.)

The Committee received a report seeking agreement to proposed changes to the North Tyneside Council Hackney Carriage and Private Hire Licensing Policy in relation to child sexual exploitation (CSE) awareness training and authorisation to undertake the necessary consultation on the changes.

A proposal to introduce online CSE awareness training was previously considered by Committee on 4 April 2017 where a number of concerns were raised by Members. Officers were instructed to carry out further work on the proposal and to review the procedures, in particular to put safeguards in place to ensure that the person undertaking the training was the driver/applicant.

The recommended amendment would require all new applicants for a hackney carriage or private hire driver's licence to complete an online CSE awareness training before a licence was issued. If training was not undertaken within 3 months the driver would be referred to Regulation and Review Committee. Currently the training was undertaken in face to face sessions which were conducted every three months. Each training session was delivered by officers from the Council's Human Resource: Organisational Development (HROD) team with a Licensing Officer and Police Officer also present. With reductions in the HROD team it had become increasingly difficult to facilitate face to face training and, going forward, would result in far fewer training sessions being available for new applicants which would impact on new drivers who may not be able to attend a training course within the three month time limit set out in the Policy. To resolve this, the HROD team had developed an online version of the training course, accessed via Learning Pool, the Authority's Learning and Development Management System.

Creating an online training package modernised the way the Council operated through improved use of technology and innovation; improved the availability of the training to new applicants; could be undertaken at a time of the applicant's own choosing and in more than one visit if required; reduced officer time in preparing and delivering face to face training; and complied with the principals of the Council's Target Operating Model.

A link to the e-learning module had been sent to Members a week before the meeting to allow them to view the whole training package if they wished and an officer from the HROD

attended the meeting and presented an overview of each section of the module at the meeting.

The Committee was informed that applicants would access the training on their smart-phone, tablet/device or PC and if they did not have access to a smart-phone, tablet/device or PC would be able to access the training using a Council I-pad in the Licensing Office, ideally to be undertaken just prior to sitting the Knowledge Test. There would be no pass mark but the training would include questions and exercises that would test the knowledge and understanding of the driver as he/she progressed through the module.

To ensure as far as possible that the person accessing the training was the applicant/driver they would be given a unique log-in to access the Council's e-learning module; a warning message would be displayed on screen to confirm that the person completing the training was the person who had logged on; when the applicant has successfully completed the training they would be issued with a Certificate to be downloaded and used to evidence that they had successfully completed the training. Only when an applicant had provided evidence that they had completed the training would they be permitted to take the Knowledge Test. As a further test to ensure it was the applicant that had completed the CSE module additional questions that could only be answered if the CSE awareness training had been successfully completed would be included in the Knowledge Test. The Knowledge Test took place under exam conditions in the Licensing Office, Killingworth and included verification of the applicant's identity and monitoring by CCTV.

Should an online version of the CSE Awareness training be introduced there would be no reason for new applicants for a licence to wait to attend a course as the training would be available at any time and the Policy could be amended to require the CSE awareness training be completed before a licence was granted which would reduce risk by ensuring that all drivers operating in the borough had an awareness of child sexual exploitation.

In addition, the current Hackney Carriage and Private Hire Licensing Policy contained no provision to require existing drivers, approximately 1400 people, to undergo additional or refresher CSE Awareness training. The Committee was requested to consider whether such a provision was required and if so its frequency and method. For these changes to be implemented a period of consultation would be required in accordance with the Authority's Hackney Carriage and Private Hire Licensing Policy and good practice.

During discussion on the matter, Members expressed concern regarding the lack of testing within the module and drivers not taking it seriously and going too quickly through the module and the number of questions relating to CSE in the Knowledge test.

In relation to the online training module, Members reached a consensus on the following points:

- a) the person completing the CSE awareness module should be tested at the end of each section and only allowed to progress when they had either answered the questions correctly or had answered incorrectly twice and been told the right answer with a recommendation to review the section again; and
- b) a signature line be added to the certificate which the driver/applicant must sign.

When considering the question of refresher training for those drivers already trained on CSE, Members agreed with the proposal that CSE awareness refresher packages should be made available and considered that it needed to be completed every three years for newly licensed drivers and for existing licensed drivers at the time their next DBS check was required; this would facilitate a smooth renewal process and converge with the transition to three year licences. The Members did not express a view on what form the renewal training should take but did consider that it was an essential part of the licensing regime.

The officer from the HROD team informed the Committee that the module used the term sexual exploitation training and not child sexual exploitation training as the risks and identifying factors related to all types of sexual exploitation and taxi drivers could potentially witness both.

Resolved that (1) the replacement of the face to face briefing sessions on sexual exploitation for newly licensed drivers with an on-line e-learning module be approved subject to the two changes set out as a) and b) above;

(2) consultation be undertaken on the proposed change to Chapter 3, paragraph 34 of the current Hackney Carriage and Private Hire Licensing Policy which would require a new applicant for a driver's licence to undertake sexual exploitation awareness training before a licence was issued; and

(3) consultation be undertaken on the proposal that sexual exploitation awareness refresher packages would be required to be completed every three years for new drivers and for existing licensed drivers at the time their next DBS check was required regardless of when they had last completed the training.

**Regulation and Review Committee
Panel**

24 August 2017

Present: Councillor John Hunter (Chair)
Councillors D McMeekan, J O'Shea and L Spillard

RQ28/08/17 Apologies for Absence

No apologies for absence were reported.

RQ29/08/17 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

RQ30/08/17 Exclusion Resolution

Resolved that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

RQ31/08/17 Appeal Against Dismissal – Mr H

The Committee met to consider an appeal lodged by Mr H against the decision of the Formal Improvement Meeting that took place on 14th June 2017.

Mr H was in attendance and accompanied by his Union representative at the appeal hearing to present his case.

A representative from the Council's Environment, Housing and Leisure Service set out the background to the case and the reasons for the decision to terminate Mr H's contract of employment with the Council.

Mr H, his union representative and Members of the Committee then were given an opportunity to ask questions of the Service's representative.

The Committee then heard representatives on behalf of Mr H.

The representatives of the Environment, Housing and Leisure Services, the Human Resources Advisor and Members of the Committee were then given an opportunity to ask questions of Mr H.

Both parties were given the opportunity to sum up their cases and then withdrew from the meeting to allow the Committee to consider and make a decision.

24 August 2017

RESOLVED: that the appeal against the decision of the Formal Improvement Meeting held on the 14th June 2017 to terminate Mr H's employment with the Council be upheld.

Regulation and Review Committee Panel

14 September 2017

Present: Councillor P Earley (Chair)
Councillor D McMeekan, T Mulvenna and J O'Shea.

RQ32/09/17 Apologies for Absence

No apologies for absence were received.

RQ33/09/17 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

RQ34/09/17 Exclusion Resolution

Resolved that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

RQ35/09/17 Hackney Carriage Proprietor's Licence Referral

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral of Mr F, the holder of a hackney carriage proprietor's licence, on a disciplinary matter.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr F's continued suitability to carry out the duties of a licensed proprietor.

A Licensing Officer and Mr F, accompanied by Mr S, attended the meeting. Also in attendance was Mr CF, another licensed driver with the Authority who had been referred to the Committee for the same incident.

The Licensing Officer presented the report. During the presentation it was explained that although Mr F had been referred to the Committee for two separate matters, after receiving legal advice the Licensing Team was now only pursuing one matter.

Members of the Committee asked questions.

Mr F then addressed the Committee. Members of the Committee asked questions of Mr F and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr F and Mr S they all left the meeting room to enable consideration of the matter to be undertaken in private. The options available to the Committee were to:

- take no action;
- issue a warning as to the future use of the vehicle;
- suspend the vehicle licence; or
- revoke the vehicle licence.

In determining its response the Committee had regard to the Authority's Hackney Carriage and Private Hire Licensing Policy. The guidelines in the Policy are taken into account and in general will be followed when considering whether to issue a warning, suspend or revoke an existing licence. Chapter 2 related to Vehicles (Hackney Carriage and Private Hire).

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it. Taking all that had been presented to the Committee and contained within the papers submitted to the meeting and having considered Mr F's explanation and his acceptance of responsibility the Committee decided that on this occasion a warning was the most appropriate sanction and would be sufficient deterrent to avoid repetition.

Resolved that Mr F be issued with a written warning and be reminded of the responsibilities which come with holding a hackney carriage proprietors licence.

RQ36/09/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral of Mr F, the holder of a combined hackney carriage/private hire driver's licence, on a disciplinary matter.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr F's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr F attended the meeting. Also in attendance was Mr TF, another licensed driver with the Authority who had been referred to the Committee for the same incident.

The Licensing Officer presented the report and Members of the Committee asked questions.

Mr F then addressed the Committee. Members of the Committee asked questions of Mr F and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr F they both left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;

- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7, section B, which makes reference to conduct.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it. Taking all that had been presented to the Committee and contained within the papers submitted to the meeting and the circumstances of the case, the Committee determined that a warning was the most appropriate sanction and would be sufficient deterrent to avoid repetition.

Resolved that Mr F be issued with a written warning and be reminded of the responsibilities which come with holding a combined hackney carriage and private hire drivers licence.

RQ37/09/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a combined hackney carriage/private hire driver's licence driver, Mr E.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr E's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr E, accompanied by his wife, Mrs E, attended the meeting.

The Licensing Officer presented the report and Members of the Committee asked questions.

Mr E then addressed the Committee and Mrs E also spoke. Members of the Committee asked questions of Mr E and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr E, all parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7, section B, which makes reference to conduct.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it. Taking all that had been presented to the Committee and contained within the papers submitted to the meeting and the circumstances of the case, the Committee determined that nothing had been put forward by Mr E to warrant a departure from the usual policy and the repeated nature of the reason for the referral and the associated lack of compliance with two conditions of Mr E's licence meant the Committee did not believe that Mr E met the standard expected of their licensed drivers and that he was no longer a fit and proper person to hold a private hire/hackney carriage driver's licence with the Authority.

Resolved that Mr E's combined hackney carriage/private hire driver's licence be revoked as the Committee was no longer satisfied that he was a fit and proper person to hold such a licence.

Regulation and Review Committee Panel

12 October 2017

Present: Councillor P Earley (Chair)
Councillor D McMeekan, John Hunter, K Osborne and
L Spillard.

RQ38/10/17 Apologies for Absence

No apologies for absence were received.

RQ39/10/17 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

RQ40/10/17 Exclusion Resolution

Resolved that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

RQ41/10/17 Private Hire Driver's Licence Referral

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a private hire driver's licence, Mr T.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr T's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr T attended the meeting.

The Licensing Officer presented the report and Members of the Committee asked questions.

Mr T then addressed the Committee. Members of the Committee asked questions of Mr T and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr T, all parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions and conduct.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it. Taking all that had been presented to the Committee and contained within the papers submitted to the meeting and having considered Mr T's explanation and his acceptance of responsibility the Committee decided that on this occasion a warning was the most appropriate sanction and would be sufficient deterrent to avoid repetition.

Resolved that Mr T be issued with a written warning and reminded of the responsibilities which come with holding a private hire driver's licence.

RQ42/10/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral of Mr S, the holder of a combined hackney carriage/private hire driver's licence driver, on a disciplinary matter.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr S's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr S attended the meeting.

The Licensing Officer presented the report and Members of the Committee asked questions.

Mr S then addressed the Committee. Members of the Committee asked questions of Mr S and sought clarification on a number of matters. It was noted that a particular aspect of the matter could be made clearer with some additional information from one of the Council's partners.

Following a summing up from the Licensing Officer and Mr S they both left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions, cautions and conduct.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it. Taking all that had been presented to the Committee and contained within the papers submitted to the meeting, the Committee determined that it did not have sufficient information to make a decision and needed further evidence in relation to the matter to be able to do so.

Resolved that Mr S's case be deferred to a future meeting to allow the Licensing Team to obtain additional written evidence from the appropriate Council partner to assist the Committee in determining its response to the case.

RQ43/10/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a combined hackney carriage/private hire driver's licence driver, Mr M.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr M's continued suitability to carry out the duties of a licensed driver.

Mr M was not present at the meeting. The committee was shown a certificate of service which stated that a copy of the committee report and a letter inviting Mr M to attend the meeting had been hand delivered to his last known address. Officers also informed the committee that no response had been received from Mr M in relation to other earlier communication. The Committee decided to proceed in Mr M's absence.

The Licensing Officer presented the report and members of the Committee asked questions.

No submission had been put forward by Mr M.

Following a summing up from the Licensing Officer he left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7, which makes reference to convictions, cautions and conduct.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it. Taking all that had been presented to the Committee and contained within the papers submitted to the meeting and the circumstances of the case, the Committee determined that there were no exceptional circumstances which warranted a departure from the Policy and concluded that Mr M was no longer a fit and proper person to hold a private hire/hackney carriage driver's licence from this Authority.

Resolved that Mr M's combined hackney carriage/private hire driver's licence be revoked as the Committee was no longer satisfied that he was a fit and proper person to hold such a licence.

North Tyneside Council Report to Regulation and Review Committee Date: 26 October 2017

ITEM 5

Title: Annual Review of
Council Policy on Covert
Surveillance

Report from Service

Area: Law and Governance

Responsible Officer: Vivienne M Geary, Head of Law and Governance (Tel: 0191 643 5339)

Wards affected: All

PART 1

1.1 Executive Summary:

The Cabinet at its meeting on 11 December 2017 will consider an updated Covert Surveillance Policy. In accordance with the Codes of Practice applying to the Regulation of Investigatory Powers Act 2000 (RIPA) the Authority's Policy is subject to annual review. A copy of the updated draft Policy (with tracked changes) is attached at Appendix 1. Regulation and Review Committee are requested to consider the revised draft policy and to recommend the Policy to Cabinet for their consideration at their meeting on 11 December 2017.

1.2 Recommendation(s):

It is recommended that the Committee:

1. note the Authority's draft Policy on Covert Surveillance (attached at Appendix 1); and
2. recommend the proposed Policy to Cabinet for adoption at its meeting on 11 December 2017.

1.3 Information:

1.3.1 Introduction

The Authority's current Surveillance Policy was approved by Cabinet in December 2016 and is subject to annual review. The Policy has been subject to a review and the revised draft policy is attached at Appendix 1. No amendments are proposed to the draft Policy as the previously adopted Policy remains fit for purpose save for the Policy reflecting the amalgamation of the Office of Surveillance Commissioners and the Interception of Communications Commissioner's Office into the Investigatory Powers Commissioner's Office from 1 September 2017.

The aims of the Authority's Policy are to:

- Set out the Authority's arrangements for complying with RIPA; the relevant Codes of Practice and guidance issued by the Home Office; and guidance from the Investigatory Powers Commissioner's Office (IPCO);
- Give effect to the rights of citizens to respect for their private and family lives (pursuant to the Human Rights Act 1998); and
- Protect the Authority from legal challenge when undertaking surveillance.

1.3.2 The RIPA Shield

The Regulation of Investigatory Powers Act 2000 (RIPA) puts covert surveillance on a statutory basis. RIPA enables certain public authorities, including this Authority, to carry out surveillance operations with statutory protection from legal challenge. It is often referred to as the "RIPA shield".

Three covert investigatory techniques are available to local authorities under RIPA:

- i. the acquisition and disclosure of communications data such as telephone billing information or subscriber details e.g. to tackle rogue traders;
- ii. directed surveillance - covert surveillance of individuals in public places e.g. to tackle criminal activity arising from anti social behaviour; and
- iii. covert human intelligence sources (CHIS) such as the deployment of undercover officers.

The RIPA provisions may only be used to authorise surveillance activities in order to detect and prevent serious crime and any authorisation is subject to a requirement to seek authorisation from an 'Authorising Officer' and to obtaining judicial approval from the Magistrates' Court before any surveillance is undertaken. The Authorising Officers within the Authority are:

Patrick Melia – Chief Executive;
Paul Hanson – Deputy Chief Executive; and
Colin MacDonald – Senior Client Manager

Officers from Law and Governance accompanied by the relevant Authorising Officer will present any authorisation to the Magistrates' Court for judicial approval. All authorisations will be subject to an internal scrutiny process prior to being submitted for such approval.

Local authorities may undertake surveillance for other purposes but such surveillance will not benefit from the RIPA shield and will leave a local authority vulnerable to challenge. For this reason all surveillance activity undertaken by the Authority, whether within the RIPA regime or not, must be appropriately authorised by one of the Authorising Officers and is subject to central monitoring and challenge.

1.3.3 Central Register

The Authority has a Central Register of all RIPA and non-RIPA surveillance activity. The Central Register is maintained and monitored by the Head of Law and Governance.

1.3.4 Inspection

Organisations using RIPA are subject to regular inspection by Investigatory Powers Commissioner's Office (IPCO). On 1 September 2017, the Office of Surveillance Commissioners (OSC) and the Interception of Communications Commissioner's Office (IOCCO) were abolished by the Investigatory Powers Act 2016. The IPCO is now responsible for the judicial oversight of the use of covert surveillance by public authorities throughout the United Kingdom.

The Authority received an inspection visit from the OSC in June 2017 prior to its abolition. The purpose of the OSC inspection was to examine the policies, procedures, operations and administration the Authority has in place in relation to directed surveillance and covert human intelligence sources.

The outcome of the inspection was very supportive of the Authority's actions to manage its responsibilities under RIPA. The Inspection report noted that:

- the Authority had not exercised its statutory powers on a single occasion since the previous inspection four years ago (further information in relation to the Authority's use of its powers is given below).
- the five specific recommendations made following the last inspection had been addressed and were discharged.

The Authority was commended for the work it had undertaken to discharge the recommendations at a time when it had not used its statutory powers. The Authority was also commended that the Authority clearly takes its responsibilities under RIPA seriously.

There was a single recommendation from the inspection directing the Authority to amend the Employee Handbook to include additional advice on the central logging of covert online identities adopted by investigating officers and the development of associated management oversight arrangements to ensure that such activity is scrutinised. This amendment is in the process of being undertaken and will be completed following the receipt of further information and guidance from the IPCO.

The Committee are requested to review the draft Policy and recommend to Cabinet that the Policy be adopted.

1.3.5 Summary of Use of Surveillance, Acquisition of Communications Data and CHIS

It should be noted that following the changes to the RIPA regime from 1 November 2012 reported to the Committee in October 2012, there have been no authorisations of any kind granted. The ground most commonly used for authorising covert surveillance addressing anti-social behaviour was removed on 31 October 2012. Authorisations may now only be sought on the grounds that it relates to the prevention and detection of serious crime. Serious crime is defined as crime punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

The Head of Law and Governance, as the Senior Responsible Officer for RIPA, keeps the Central Record of authorisations under review and advises Authorising Officers/Designated Persons of changes in approach or procedure.

1.3.6 Corporate Responsibilities

The Codes of Practice advise that a Senior Responsible Officer (SRO) should be identified to ensure the Authority has appropriate policies and processes that accord with RIPA and the related Codes of Practice.

The Officer Delegation Scheme places the Senior Responsible Officer role with the Head of Law and Governance.

Each Head of Service is responsible for ensuring effective and legally compliant systems and procedures are in place for surveillance work within their Service Areas.

All employees connected with surveillance and handling of evidence are responsible for ensuring that they act only in accordance with their level of responsibility and training and in accordance with the Policy and associated documents. To assist in this an 'Employee Handbook: Use of Covert Surveillance, Covert Human Intelligence Sources and Communications Data', has been prepared. The Handbook provides key information for Officers and directs them towards key sources of detailed guidance. It is kept under review and revised as necessary to ensure it reflects current procedures and best practice.

If Officers wish to undertake surveillance that falls outside of the RIPA regime they must take legal advice and seek appropriate authorisation. Information regarding surveillance (whether under RIPA or not) must be held centrally by the Senior Responsible Officer to enable the Authority to have an overview of all surveillance activities being undertaken by the Authority.

Use of Social Media for the collection personal information

The application of the requirements of RIPA to the use of informants via, in particular, social media is a developing area of surveillance law. Social Media provides the opportunity for the Authority to monitor for example individual rogue traders who trade on-line in the context of trading standards investigations. The continued monitoring of the activities of an individual or the development of a relationship with a trader with the purpose eliciting information from the trader may fall within the RIPA regime.

As stated above this is an area which is continuing to be monitored as it develops and Officers from Law and Governance and Trading Standards are considering how such activities should actually be undertaken and whether those activities go as far as requiring a RIPA authorisation.

The most recent Office of Surveillance Commissioners' Guidance did provide some limited guidance on this matter and refers to the implications of interference through such activities with an individual's rights to a private and family life under Article 8 of the Human Rights Act 1998.

In addition the Authority may undertake such surveillance for activities that could not benefit from the protection of the RIPA shield i.e. the activity being investigated would not meet the serious crime test for example in child protection. Such surveillance may simple be the monitoring of entries on social media (e.g. Facebook) such as calling beach parties or where concerns about breaches of the social media policy may arise. In these circumstances whilst the surveillance is not unlawful it leaves a local authority more vulnerable to challenge as it still entails the collection information about an individual. For this reason the Authority requires that all surveillance activity undertaken by the

Authority outside of the RIPA regime must be appropriately authorised by one of the Authorising Officers and is subject to central monitoring.

Further information have been provided to Heads of Service to raise awareness of RIPA, the circumstances when a RIPA authorisation is necessary and those circumstances where surveillance activity outside of the RIPA regime must still be appropriately authorised

1.3.7 Compliance and Oversight

The Codes of Practice indicate that elected members of a local authority should review its use of RIPA and set the general surveillance policy at least annually. A local authority should also consider internal reports on the use of RIPA at least quarterly to ensure that it is being used consistently in compliance with the Authority's Policy and that the Policy remains fit for purpose. It has not been possible to give quarterly reports on the use RIPA since 1 November 2012 as no authorisations have been granted. It was agreed by the Committee in 2015 that the use of RIPA should be reported to the Committee on an exception basis. Therefore when an authorisation is granted it will be reported the next available meeting of the Committee to ensure the requirements for member oversight of the use of the Authority's RIPA powers are discharged.

To meet these requirements the Policy Statement provides that:

- Cabinet receives an annual report covering the Authority's use of RIPA powers, and review of the Policy for the following year;
- Reports are presented to the Regulation and Review Committee on the Authority's use of RIPA powers. The Committee's role is to look at compliance, oversight and use of RIPA. The Committee will also consider whether the Policy remains fit for purpose and recommend changes to the Policy as appropriate for Cabinet's consideration; and
- The Elected Mayor who has responsibility for RIPA related activities receives regular updates from the Senior Responsible Officer regarding the use of the Authority's powers.

1.3.8 Closed Circuit Television (CCTV) Systems

North Tyneside Council's CCTV control room operates cameras throughout the Borough. Overt surveillance as conducted through the use of CCTV is covered by the Data Protection Act 1998 and not by RIPA. Signage is in place informing the public when they enter zones covered by CCTV equipment. The Council's CCTV control room is registered with the Surveillance Camera on Commissioner under the Data Protection Act 1988.

If the CCTV cameras are used for covert surveillance (whether by the Authority or the Police), a RIPA authorisation is required. The Police may make formal written requests for surveillance of a target for which they have a RIPA authorisation. The CCTV Control Room Co-ordinator will seek written confirmation of this authorisation.

1.4 **Appendices:**

Appendix 1: Policy on Covert Surveillance (draft)

1.5 **Contact officers:**

Stephen Ballantyne, Lawyer Specialist – Governance and Employment (0191 643 5329)

1.6 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- Regulation of Investigatory Powers Act 2000 and relevant Orders
- Code of Practice – Covert Surveillance and Property Interference
- Code of Practice – Covert Human Intelligence Sources
- Code of Practice – Acquisition and Disclosure of Communications Data
- Protection of Freedoms Act 2012

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The provisions of the Policy can be implemented within the Service's existing resources.

2.2 Legal

The Policy has been prepared with reference to the relevant law and Codes of Practice. A number of Statutory Instruments and Codes of Practice published by the Home Office that govern the operation of RIPA.

The Authority may only authorise directed surveillance where it is both necessary and proportionate to the investigation or operation being undertaken and to what is being sought to achieve in terms of evidence gathering. Senior Officers are appointed as Authorising Officers and have a key role in carefully scrutinising all applications for the use of RIPA powers under a specific authorisation. Judicial approval is required from the Magistrates' Court in relation to all authorisations prior to any surveillance being undertaken.

Authorising Officers must ensure that authorisations are granted only in appropriate cases and that the extent of all authorisations are clearly set out.

The Authority cannot authorise intrusive surveillance under RIPA. Intrusive surveillance would involve placing an investigator on residential premises or in a private vehicle or allowing the use of an external surveillance device outside of the premises or vehicle that gives the same quality of information as if it was on the premises or in the vehicle.

The Policy, together with the Employee Handbook covers the procedures to be followed in seeking authorisations, maintaining appropriate oversight of the Policy and the central record of decisions.

2.3 Consultation/community engagement

The Policy is aimed at ensuring adherence to the best practice contained within the Codes of Practice as well as the law.

Internal consultation has taken place with officers with responsibility for the management and supervision of surveillance activity as well as with the Elected Mayor.

2.4 Human rights

Human rights implications are addressed within the report and the Policy. RIPA provides a framework under which surveillance activity can be authorised and conducted in a way that is compatible with the rights of individuals.

The Authority must also ensure that activity that falls outside of the RIPA regime is subject to careful scrutiny and authorisation to ensure that human rights are respected and the activity is lawfully undertaken.

2.5 Equalities and diversity

There are no equalities and diversity implications directly arising from the report.

2.6 Risk management

The Authority's Policy and the procedures contained in the Employee Handbook are designed to ensure the Authority complies with the law and Codes of Practice and thereby reduce the risks associated with surveillance activity.

2.7 Crime and disorder

RIPA may only be utilised by the Authority for the purposes of detecting and preventing crime.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

(December 2017)



North Tyneside Council

Covert Surveillance Policy

(Regulation of Investigatory Powers Act 2000) (RIPA)

1. INTRODUCTION

This is North Tyneside Council's Covert Surveillance Policy document. It sets out the adopted approach of the Authority to ensure that any surveillance activity undertaken by the Authority is conducted in a way that is compatible with the human rights of individuals, in particular the right to respect for private and family life (in accordance with Article 8 of the European Convention on Human Rights).

The aim of the Policy is to:

- Explain the Authority's arrangements for authorising surveillance activity;
- Direct Officers to the key sources of guidance to ensure compliance with the Policy;
- Give effect to the rights of citizens to respect for their private and family lives (pursuant to the Human Rights Act 1998);
- Protect the Authority from legal challenge when undertaking surveillance; and
- Assist the Authority in complying with the Codes of Practice, Regulations and Orders issued under the Regulation of Investigatory Powers Act 2000 (RIPA) and to meet the requirements of the Inspectors from the ~~Investigatory Powers Commissioner's Office (IPCO)~~ Investigatory Powers Commissioner's Office (IPCO).

2. POLICY STATEMENT

The Authority agrees that as a matter of policy:

- The Authority is committed to complying with: (a) the Regulation of Investigatory Powers Act 2000 (RIPA) and the Codes of Practice issued under RIPA by the Home Office; and (b) guidance supplied by the Investigatory Powers Commissioner's Office (IPCO) ~~Investigatory Powers Commissioner's Office~~;
- Surveillance that falls outside of the RIPA regime will be subject to the Non-RIPA authorisation procedure and central monitoring to ensure: (a) the Authority has an overview of all surveillance activity it undertakes; and (b) such activity is appropriately scrutinised; and (c) the rights of individuals are appropriately safeguarded.
- Relevant Officers shall receive sufficient training and guidance so as to reasonably ensure such compliance;
- Any Officer shall, if in any doubt about whether the legislation applies in a particular case or how to comply with it, seek guidance from an Authorising Officer and/or the Head of Law and Governance.

3. REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework under which covert surveillance activity can be authorised and conducted in a way that is compatible with the rights of individuals. Where RIPA is complied with it provides statutory protection from legal challenge to the local authority and for this reason it is often referred to as the "RIPA shield".

Three covert investigatory techniques are available to local authorities under RIPA:

- i. directed surveillance – covert surveillance of individuals in public places e.g. to tackle criminal activity;
- ii. covert human intelligence sources (CHIS) such as the deployment of undercover officers; and
- iii. the acquisition and disclosure of communications data such as telephone billing information or subscriber details e.g. to tackle rogue traders.

The Authority will use RIPA authorised surveillance where appropriate in order to detect and prevent crime. Authorisation will only be given where the proposed surveillance is both necessary and proportionate.

The Protection of Freedoms Act 2012 requires local authorities to obtain the prior approval of a Justice of the Peace before the use of any one of the three covert investigatory techniques available as detailed above. An approval is also required if an authorisation to use such techniques is being renewed.

In each case, the role of the Justice of the Peace is to ensure that the correct procedures have been followed and the relevant factors have been taken into account. Approval can only be given if the Justice of the Peace is satisfied that:

- a) There were reasonable grounds for the Authority's Authorising Officer approving the application to believe that the Directed Surveillance or deployment of a CHIS was necessary and proportionate and that there remain reasonable grounds for believing so;
- b) The Authorising Officer was of the correct seniority within the organisation i.e. a Head of Service, Service Manager or equivalent in accordance with the relevant Regulations;
- c) The granting of the authorisation was for the prescribed purpose of preventing or detecting crime and satisfies the Serious Offence Test for Directed Surveillance (see below); and
- d) Any other conditions set out in any order under Part 2 of RIPA are satisfied (there are none at present).

In addition to the above, where the authorisation is for the deployment of a CHIS, the Justice of the Peace must be satisfied that:

- a) the local authority can ensure that there are officers in place to carry out roles relating to the handling and management of the CHIS as well as the keeping of records;
- b) Where the CHIS is under 16 or 18 years of age, the necessary requirements in relation parental consent, meetings, risk assessments and the duration of the authorisation have been satisfied. Note that the authorisation of such persons to act as a CHIS must come from the Head of Paid Service.
- c) Where the application is for the renewal of a CHIS authorisation, a review has been carried out by the local authority and the Justice of the Peace has considered the results of the review.

The provisions in relation to judicial approval make it clear that the Authorising Officer is not required to apply in person and there is no need to give notice to either the subject of the authorisation or their legal representatives. This reflects the covert nature of the exercise of the investigatory powers under RIPA. The Authority would be represented in any application to a Justice of the Peace by the Authority's Legal Service and the Authorising Officer.

There is no requirement for a Justice of the Peace to consider either cancellations or internal reviews of authorisations.

At all times the risk of obtaining private information about persons who are not subjects of the surveillance must be considered (collateral intrusion) and steps must be taken to avoid or minimise it.

Examples of investigations where it is envisaged that covert techniques may be utilised to enable local authorities to gather evidence and offer evidence in legal proceedings include:

- Trading Standards e.g. action against loan sharks and rogue traders, car fraud, consumer scams, deceptive advertising, counterfeit goods, unsafe toys and electrical goods; and
- Environmental protection e.g. action to stop large scale waste dumping, the sale of unfit food etc.

Serious Offence Test

Local authorities may only use the RIPA provisions to authorise surveillance activities in order to detect and prevent crime as defined by the Regulations. In particular the crime which is sought to be prevented or detected by the surveillance activity must be punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

4. NECESSARY AND PROPORTIONATE

The Authority may only authorise directed surveillance, CHIS or the acquisition of communications data where it is both necessary and proportionate to what it seeks to achieve. Senior Offices are appointed as Authorising Officers (or Designated Persons for communications data purposes) and have a key role to play in carefully scrutinising all applications. Authorising Officers/Designated Persons must ensure that authorisations are granted only in appropriate cases and that the extent of all authorisations are clearly set out.

5. COLLATERAL INTRUSION

Collateral intrusion is obtaining private information about persons who are not subjects of the surveillance. The risk of collateral intrusion must be considered and measures should be taken to avoid or minimise it.

6. NON-RIPA SURVEILLANCE

Surveillance activity which falls outside of RIPA, for example, monitoring of employees, does not benefit from the RIPA shield. When operating outside of the RIPA regime there is a greater risk of breaching an individual's rights or being successfully challenged.

The Authority via its Senior Responsible Officer retains a central register of Non-RIPA surveillance activity. Officers are required to take great care to appropriately record, authorise, monitor and scrutinise such activity.

The principles of proportionality and necessity and the requirement to avoid or minimise collateral intrusion also apply to Non-RIPA surveillance.

7. CLOSED CIRCUIT TELEVISION (CCTV) SYSTEMS

Overt surveillance via CCTV is covered by the Data Protection Act 1998 and not by RIPA. CCTV is subject to the Surveillance Camera Code of Practice under the Data Protection Act, which is overseen by the Surveillance Camera Commissioner.

Signage must be in place to inform the public when they enter zones covered by CCTV equipment.

A central record of all CCTV in buildings operated by the Authority is held by the Senior Responsible Officer.

If CCTV cameras are used for covert surveillance (whether by the Authority or the Police), a RIPA authorisation is required.

North Tyneside Council's CCTV control room operates cameras throughout the North Tyneside area. The Police may make formal written requests for surveillance of a target for which they have a RIPA authorisation. Confirmation by sight of this authorisation will be sought and a copy will be retained (redacted as appropriate) by the CCTV Control Room Co-Ordinator.

Employees using CCTV covertly must be aware of the possibility of collateral intrusion (invading the privacy of people other than the target) and take steps to avoid or minimise it.

The Protection of Freedoms Act 2012 makes provision for the further regulation of surveillance camera systems. These are defined as Closed Circuit Television (CCTV), Automatic Number Plate Recognition (ANPR) and other surveillance camera technology.

The Surveillance Camera Code of Practice also includes guidance in relation to the development or use of such systems, and the use and processing of information derived from them. The Code of Practice includes provisions about:

- considerations as to whether to use surveillance camera systems;
- types of systems or apparatus
- technical standards for systems or apparatus
- locations for systems or apparatus
- the publication of information about systems or apparatus
- standards applicable to persons using or maintaining systems or apparatus
- standards applicable to persons using or processing information obtained by virtue of systems
- access to, or disclosure of, information so obtained
- procedures for complaints or consultation

The Authority must have regard to the Code if they operate or intend to operate any surveillance camera systems covered by the Code.

Failure to adhere to the Code will not in itself render an organisation liable to legal proceedings, but the Code is admissible in civil or criminal proceedings. The Code could also be enforced by way of judicial review in the High Court.

The CCTV provisions in the Protection of Freedoms Act 2012 add a completely new layer of control over the use of CCTV by local authorities.

8. CORPORATE RESPONSIBILITIES

The Authority's Senior Responsible Officer (currently the Head of Law and Governance) has overall responsibility for RIPA.

The Senior Responsible Officer appoints Authorising Officers and Designated Persons. A list of Authorising Officers/Designated Persons is held with the Central Record. This list may change as required. Only Authorised Officers named in the list may authorise covert surveillance activities under RIPA. Only Designated Persons named in the list may authorise the acquisition of communications data. The Senior Responsible Officer may remove an Officer from the list where they consider it is appropriate to do so.

In particular, the Senior Responsible Officer ensures that:

- Only Officers who have received appropriate training on RIPA are permitted to become Authorising Officers/Designated Persons.
- Refresher training is provided as required and training records are maintained.
- Monitoring arrangements are in place in each Service to ensure that the Authority is meeting its obligations under RIPA, the Codes of Practice, and this Policy.
- Reviews of authorisation documentation take place to ensure that they are completed in accordance with the requirements of RIPA, the Codes of Practice and Authority guidance. Appropriate feedback is given to officers to ensure high standards are encouraged and maintained.
- The Central Record is maintained in accordance with the requirements of the Codes of Practice and Authority guidance.
- An up-to-date copy of this Policy and associated guidance is available to all relevant employees.
- An annual review of this Policy is undertaken and presented to Cabinet for approval, in addition to provision of monitoring information.

The RIPA Co-ordinating Officer (currently the Lawyer Specialist – Governance and Employment) supports the Senior Responsible Officer in relation to the discharge of that role. The RIPA Co-ordinating Officer also monitors all authorisations and provides robust challenge to authorisations to ensure they meet the requirements of the law and this Policy.

Each Head of Service is responsible for ensuring effective and legally compliant systems and procedures are in place for surveillance work within their Service Areas in respect of any surveillance activity whether undertaken within or outside of the RIPA provisions.

The Senior Responsible Officer is also responsible for ensuring that:

- Relevant officers receive appropriate training on RIPA before undertaking investigations that include (or may include) Directed Surveillance, the use of a CHIS or the acquisition or disclosure of communications data.
- Refresher training is provided as required and training records are maintained and supplied to the Senior Responsible Officer.
- Authorisations are approved, reviewed, renewed, and cancelled by the Authorising Officer/Designated Person as necessary, and such actions are reported to the Senior Responsible Officer.
- Records and evidence obtained as a result of surveillance/investigation are kept and destroyed in accordance with Authority Policy.

All employees connected with surveillance and handling evidence are responsible for ensuring that they act only in accordance with their level of responsibility and training and in accordance with this Policy and associated documents.

9. GUIDANCE

The Authority's intranet has a surveillance page containing the key guidance documents, including this Policy, the Employee Handbook, the relevant Codes of Practice, a guide to completing RIPA forms and a link to the Home Office RIPA forms.

The Authority has prepared the 'Employee Handbook: Use of Covert Surveillance & Covert Human Intelligence Sources & Communications Data (Regulation of Investigatory Powers Act 2000 (RIPA))' to provide guidance to Authority Officers regarding the use of RIPA and the procedures that must be followed.

The Employee Handbook may be revised by the Senior Responsible Officer during the year to reflect changes in procedures or best practice.

All Authority Officers who may authorise or undertake surveillance work must read the Handbook and follow the procedures within it.

Authority Officers are encouraged to seek guidance on the procedures from the Authorising Officers/Designated Persons and the Senior Responsible Officer.

If Officers wish to undertake surveillance which falls outside of the RIPA regime they must seek appropriate authorisation. This is covered in the Employee Handbook. Information regarding surveillance (whether under RIPA or not) must be held centrally by the Senior Responsible Officer to enable the Authority to have an overview of all surveillance activities being undertaken.

10. COMPLIANCE AND OVERSIGHT

The Senior Responsible Officer will assess compliance with this policy and associated guidance. The Senior Responsible Officer may seek support from Internal Audit as appropriate.

A random sample of authorisations will be checked monthly by the Senior Responsible Officer and on receipt by the RIPA Co-Ordinating Officer and any incorrect or incomplete authorisations will be reported to the relevant Authorising Officer and Head of Service. In addition to the sample checks the Senior Responsible Officer will provide feedback and guidance to Officers as needed throughout the year.

Elected Members have a key role in setting policy and overseeing the use of RIPA within the Authority. Members do not make investigatory/enforcement casework decisions in relation to specific authorisations.

The Elected Mayor is designated to champion compliance with RIPA within the Authority processes. The Elected Mayor receives regular updates from the Senior Responsible Officer regarding the use of the Authority's powers.

The Senior Responsible Officer presents reports to Regulation & Review Committee at least annually on the Authority's use of the powers but will also usually report the use of RIPA to the next available committee meeting. The Committee looks at compliance, oversight and use of

RIPA. The Committee considers whether the policy remains fit for purpose and will recommend changes where appropriate for Cabinet's consideration.

Cabinet will receive an annual report upon the Authority's use of the powers and will set the policy for the following year.

The Authority has designated a Cabinet Member (currently the Elected Mayor) and a Senior Responsible Officer (currently the Head of Law and Governance) to champion and oversee compliance with this Policy and associated procedures. Each Head of Service is responsible for ensuring compliance with RIPA in their service area.

Cabinet will review the RIPA policy and the Authority's use of RIPA on an annual basis.

11. REVIEW OF THIS POLICY

The Senior Responsible Officer will review this policy and associated controls as follows:

- Annually.
- Following legislative changes.
- Following any recommendations received as a result of inspections and reviews undertaken by the Investigatory Powers Commissioner's Office.
- Following any major breach in compliance.

12. RECORD KEEPING

Authorising Officers must send the originals of all applications, reviews, renewals and cancellations to the Senior Responsible Officer for filing with the Central Record. In light of the confidential nature of the data original documents should be hand delivered and must be stored securely. Documentation must not be altered in any way following its completion. If any clarification is needed regarding the content of a document this must be done via a separate document which must be signed and dated.

All documentation received as a result of an authorisation must be handled and stored securely and in line with data protection principles.

13. DESTRUCTION OF MATERIAL

Any material obtained during covert surveillance that is wholly unrelated to the operation and where there is no reason to believe that it will be relevant to future civil or criminal proceedings will be destroyed immediately.

In North Tyneside Council the retention period for the central record and associated material is six years from the end of each authorisation or the conclusion of connected court proceedings (whichever date is last).

Where the retention period has expired, the authorisation and any other material obtained or created during the course of the covert surveillance under the unique reference number will be destroyed.

The Authorising Officer/Designated Person will be responsible for ensuring that all material held in the department relating to the unique reference number is destroyed.

The Authorising Officer/Designated Person will notify the Senior Responsible Officer that the retention period has expired, giving the unique reference number and authorise destruction of the material held in the Central Record of Authorisations.

All material to be destroyed will be treated as confidential waste.

Officers should also refer to the Authority's Record Retention Guidelines before destroying any document or evidence obtained under RIPA.

Further guidance on record keeping is available in the Codes of Practice.

14. TRAINING

The Senior Responsible Officer will train the senior managers responsible for overseeing and monitoring RIPA activities, all other employees involved in RIPA activities, and ensure that they understand this Policy.

The Senior Responsible Officer will keep a record of the training undertaken by employees.

15. CODES OF PRACTICE & RELATED AUTHORITY DOCUMENTS

The following Codes of Practice have been issued by the Home Office:

1. Code of Practice - Covert Surveillance and Property Interference
2. Code of Practice - Covert Human Intelligence Sources
3. Code of Practice - Acquisition and Disclosure of Communications Data

All employees involved in surveillance activities must have regard to and act in accordance with:

- the Codes of Practice;
- the Employee Handbook: Use of Covert Surveillance & Covert Human Intelligence Sources & Communications Data (Regulation of Investigatory Powers Act 2000) (RIPA); and
- instruction and guidance from Authorising Officers/Designated Persons and the Senior Responsible Officer.

The Employee Handbook includes appendices providing detailed guidance to assist in the completion of RIPA forms.

16. MISCONDUCT

All employees involved in RIPA activities will comply with this Policy. Failure to comply with this Policy may be dealt with as misconduct or gross misconduct under the disciplinary procedures depending upon all of the circumstances of the case.

17. COMPLAINTS

Any complaint made to the Authority will be dealt with in accordance with the corporate complaints procedure.

North Tyneside Council Report to Regulation and Review Committee Date: 26 October 2017

ITEM 6

Title: Proposed Amendment to the Hackney Carriage and Private Hire Licensing Policy: Child Sexual Exploitation Awareness Training.

Report from Service Area: Environment, Housing and Leisure

Report Authors: Colin MacDonald
Senior Manager,
Technical & Regulatory Services **Tel: (0191) 643 6620**

Joanne Lee
Public Protection Manager **Tel: (0191) 643 6901**

Wards affected: All

PART 1

1.0 Purpose

The purpose of the report is to advise the Committee of the outcome of the consultation exercise undertaken by Officers at the request of the Committee in relation to proposed changes to the Authority's Hackney Carriage and Private Hire Licensing Policy in relation to Child Sexual Exploitation (CSE) Awareness training and to invite the Committee to determine if changes should be made to the Policy.

The consultation requested views on whether or not new applicants for a hackney carriage/private hire driver's licence should undertake CSE Awareness training prior to being issued a licence and if existing drivers should undergo additional or refresher CSE Awareness training.

1.1 Recommendations

Committee is recommended to:

1. Require new applicants for a hackney carriage/private hire driver's licence to undertake Child Sexual Exploitation Awareness training prior to being issued with a licence and for the Hackney Carriage and Private Hire Licensing Policy to be amended accordingly; and
2. Note that all existing hackney carriage/private drivers will be provided with updating material relating to Child Sexual Exploitation Awareness by the Authority when considered appropriate to do so, so that all drivers are provided with relevant refresher material in a timely fashion.

1.2 Background Information

1.2.1 Child Sexual Exploitation (CSE) Awareness Training

The current Hackney Carriage and Private Hire Licensing Policy came into force on 4 April 2017 and requires all newly licensed drivers to undertake Child Sexual Exploitation (CSE) Awareness training within three months of their licence being issued.

Chapter 3, Paragraph 34 of the Policy states: It is a requirement that all new licensed drivers undertake child sexual exploitation awareness training within 3 months of a new licence being granted. If training is not undertaken within 3 months the driver will be referred to Regulation and Review Committee.

The effect of this policy is that new applicants are issued with a hackney carriage/private hire driver's licence before completing the CSE awareness training.

The current Policy does not contain any provision for existing drivers to undergo additional or refresher training.

1.2.2 Proposal for New Applicants to Undertake CSE Training Before Issue of Driver's Licence and Existing Drivers to Undergo Refresher Training

At its meeting on 13 July 2017 Committee approved the introduction of online CSE Awareness training in place of face to face training which required drivers to make an appointment to attend at the Authority's offices to undertake the training.

It was explained to Committee that appropriate safeguards are in place to ensure that the drivers undertaking the on line training complete the training and explained that information given to them in the training would form the basis of some of the questions included in the "knowledge test".

Committee also considered a proposal to require new applicants for a driver's licence to undertake the CSE Awareness training before being issued with a licence rather than having 3 months after issue to undertake such training, and whether existing drivers should be required to undergo refresher training at appropriate intervals.

As the proposed changes would constitute a change to the existing Hackney Carriage and Private Hire Licensing Policy, Committee considered that it would be appropriate to undertake public consultation on these proposed changes to the Policy and requested officers to arrange for such consultation to take place and for officers to report back to Committee at the conclusion of the consultation exercise.

1.2.3 Consultation Exercise

The consultation exercise took place between 7 August 2017 and 15 September 2017. Those consulted included the hackney carriage and private hire trade, the police and the Authority's Safeguarding Service. The consultation questionnaire was also available on the Authority's website during this period.

The specific questions relating to CSE Awareness Training contained in the consultation were as follows:

- (1) To what extent do you agree or disagree that new licence applicants should undertake child sexual exploitation awareness training before they are issued with a licence?
- (2) To what extent do you agree or disagree that new hackney carriage and private hire drivers should be required to complete a sexual exploitation awareness package every three years and existing drivers at their next DBS check?

1.2.4 Summary of Responses

In total 61 responses were received. Fifty nine responses were received electronically and a summary of these is attached at **Appendix 1**. Two written responses were also received, from A to Z Licensing and the Authority's Local Children's Safeguarding Board, these are attached at **Appendices 2 and 3**.

Question 1: Fifty nine respondents strongly agreed or tended to agree that new applicants for a licence should undertake the CSE Awareness training before being issued with a licence.

Two respondents strongly disagreed with this proposal.

There is therefore evidence that the proposal for new drivers to undertake CSE Awareness Training before being issued with a Licence is strongly supported by the licensed trade and the Local Safeguarding Children Board.

Question 2: Fifty nine respondents strongly disagreed or tended to disagree that existing drivers should undertake refresher training in relation to CSE Awareness.

One respondent strongly agreed with this proposal.

The Authority's Local Children's Safeguarding Board agreed that undertaking a refresher package would be good practice but stated as an alternative, information could be circulated to drivers if there had been changes, for example on an annual basis.

Unlike the responses to the first question, the licensed trade is not supportive of any proposal for the Hackney Carriage and Private Hire Licensing Policy to include a requirement for existing drivers to have to undertake CSE Awareness refresher training refresher training at appropriate intervals.

- 1.2.5** Having now undertaken consultation on these proposals Committee is requested to consider the consultation responses received and decide whether or not to amend paragraph 34 of the Hackney Carriage and Private Hire Licensing Policy.

1.3 Decision Options

1.3.1 (1) Proposal for New Applicants to Undertake CSE Training Before Issue of Driver's Licence.

1.3.2 Option 1

Require new applicants for a hackney carriage/private hire driver's licence to undertake CSE Awareness training prior to being issued a licence and amend the Policy and relevant conditions of licence accordingly.

This is the recommended option as approximately 97% of respondents confirmed this position. If the Policy includes a requirement for each new applicant for a driver's licence to have completed the CSE Awareness Training, officers will refuse to issue a licence to the applicant until such time as the training has been completed.

The need for all drivers to have an awareness of CSE and how to identify those who may be at risk of such harm is central to the Authority's desire to ensure as far as possible that those travelling in the Borough do so safely.

Option 2

Take no action. This would leave the current policy in place whereby new applicants are issued with a hackney carriage/private hire driver's licence before completing the training although they would have to have undertaken CSE Awareness Training within 3 months of their licence having been issued.

Option 3

Request that officers undertake further work on this issue.

1.3.3 (2) Proposal for Existing Drivers to Undergo Refresher Training

Option 1.

Do not require existing hackney carriage/private hire driver's to complete child sexual exploitation awareness refresher training every three years and existing drivers at their next DBS check, and for such a requirement not to be included in the Hackney Carriage and Private Hire Licensing Policy.

This is the recommended option given that approximately 97% of respondents were against such a proposal.

However, to ensure that drivers are up to date with CSE awareness issues, it is proposed that officers will provide all drivers with CSE Awareness refresher material as and when considered appropriate. If, for example there is an issue that is brought to the attention of officers by the Police or the Authority's Safeguarding Team or there are any other issues that the Safeguarding Team considers should be passed onto the drivers, this will be included in the materials sent to drivers.

Such a proposal would ensure that CSE Awareness remains a priority for the Authority and that all drivers are made aware in a timely fashion of any new or ongoing issues that relate to CSE.

Option 2

Require existing hackney carriage/private hire driver's to complete a sexual exploitation awareness package every three years and existing drivers at their next DBS check.

This is not the recommended option. As stated above 97% of respondents were against this proposal. This would be an onerous obligation for drivers which the Authority would be required to administer. The proposal to pass on updates or information to Operators and drivers can be done when it is appropriate to give such updates.

Option 3

Request that officers undertake further work on this issue.

1.3.2 The current Hackney Carriage and Private Hire Licensing Policy can be viewed on the North Tyneside Council website www.northtyneside.gov.uk

1.4 Appendices:

1.4.1 Appendix 1 - Summary of Consultation on CSE Awareness Training

Appendix 2 - Written response from David Wilson, A to Z Licensing

Appendix 3 - Written response from Sue Burns, LSCB Business Manager, NTC

1.5 Contact Officers:

- 1.5.1** Colin MacDonald, Senior Manager, Technical & Regulatory Services, Tel: 0191 643 6620
Joanne Lee, Public Protection Manager, Tel: 0191 643 6901
Alan Burnett, Principal Trading Standards & Licensing Officer, Tel: 0191 643 6621

1.6 Background Information:

- 1.6.1** The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author of the report.

1. Local Government (Miscellaneous Provisions) Act 1976
2. North Tyneside Council Hackney Carriage and Private Hire Licensing Policy

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and Other Resources:

There are no financial implications for the Authority arising directly from this report.

2.2 Legal

2.2.1 Legislative Framework

The Local Government (Miscellaneous Provisions) Act 1976 makes provision for the licensing authority to issue licences for hackney carriage and private hire drivers, vehicles, and operators.

Local authority Hackney Carriage and Private Hire licensing activity is governed by legislation and best practice guidance, including the Town Police Clauses Acts of 1847, the Local Government (Miscellaneous Provisions) Act of 1976 and the Transports Acts of 1980 and 1985.

In line with case law and in an effort to ensure consistency in decision making when discharging its licensing functions, the Authority has developed its Hackney Carriage and Private Hire Licensing Policy. The Policy is reviewed on a regular basis and changes made to it when considered appropriate. Given recent events, both nationally and locally, concerning Child Sexual Exploitation, the Authority considered it appropriate to amend its Licensing Policy to include training on CSE Awareness as a requirement for all drivers licensed by the Authority.

2.3 Consultation/Community Engagement:

Consultation has taken place regarding Child Sexual Exploitation Awareness Training.

2.4 Human Rights:

The economic interests connected to the use of a licence may be considered to be a possession belonging to existing licensees and as such are afforded protection under Article 1 of Protocol 1 of the European Convention on Human Rights.

2.5 Equalities and Diversity:

There are no equality and diversity implications arising from this report. The North

Tyneside Council Hackney Carriage and Licensing Policy has been the subject of an Equality Impact Assessment.

2.6 Risk Management:

There are no significant risk management implications to the Authority arising directly from this report.

2.7 Crime and Disorder:

It is not considered that there are any crime and disorder implications arising directly from this report.

2.8 Environment and Sustainability:

It is not considered that there are any environment and sustainability implications arising directly from this report.

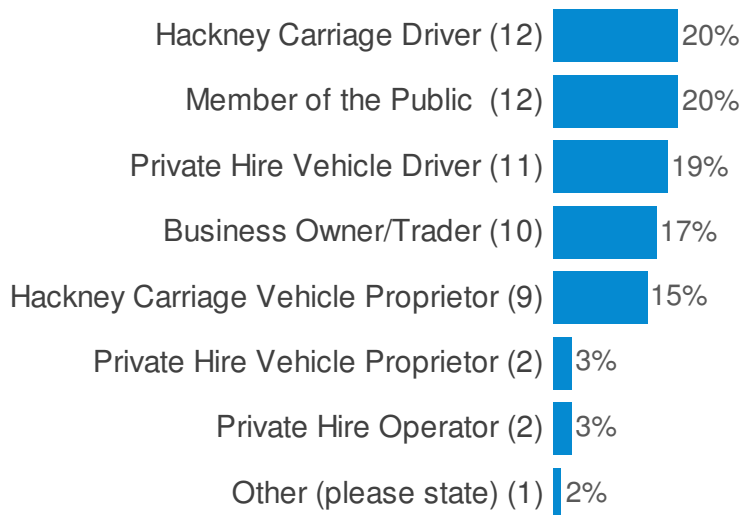
Proposed amendment to policy re: CSE training

Proposed amendment to policy re: CSE training

This report was generated on 18/09/17. Overall 59 respondents completed this questionnaire. The report has been filtered to show the responses for 'All Respondents'.

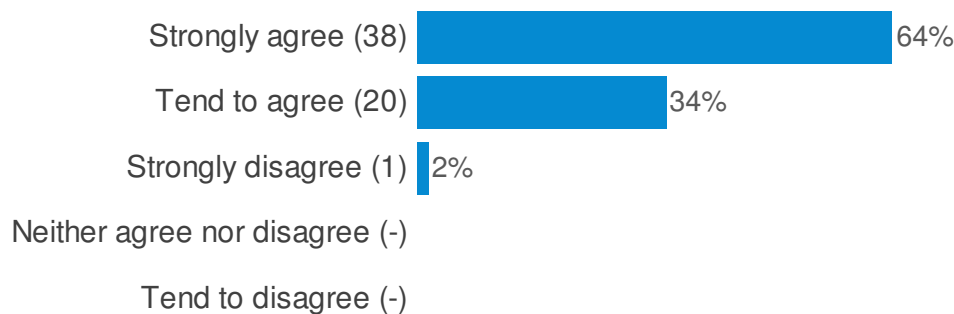
The following charts are restricted to the top 12 codes. Lists are restricted to the most recent 100 rows.

Which of the following best describes you? (Please tick as applicable)



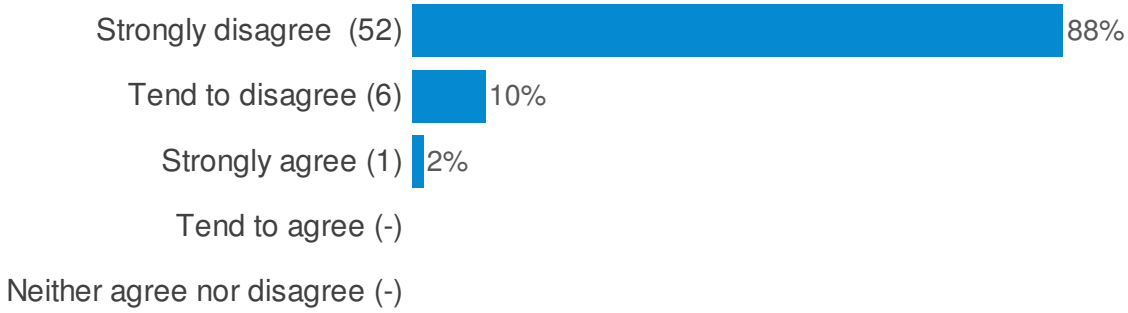
Police Officer

To what extent do you agree or disagree that new licence applicants should undertake child sexual exploitation awareness training before they are issued with a licence?



Proposed amendment to policy re: CSE training

To what extent do you agree or disagree that new hackney carriage and private hire drivers should be required to complete a sexual exploitation awareness refresher package every three years and existing drivers at their next DBS check?



Alan Burnett
Trading Standards & Licensing Group Leader
North Tyneside Council
Quadrant
The Silverlink North
Cobalt Business Park
Newcastle upon Tyne
NE27 0BY

Our Ref: DBW / BLT & ECT
Your Ref:
Date: 15 September 2017
Please ask for: David Wilson

Sent by email only to:
alan.burnett@northtyneside.gov.uk

Dear Mr Burnett,

**Proposed amendments to policy in respect of CSE Awareness Training
Consultation response on behalf of Blue Line Taxis and EastCoast Taxis**

Thank you for inviting my clients, Blue Line Taxis and EastCoast Taxis, to comment on the proposed amendments to policy.

Rather than simply respond to the two substantive online questions, my clients should wish to take this opportunity to explain their joint response.

Q2: To what extent do you agree or disagree that new licence applicants should undertake child sexual exploitation awareness training before they are issued with a licence?

A2: To use an answer provided to the online questionnaire, my clients 'strongly disagree' with the proposal that CSE awareness training should be undertaken by applicants before they are issued a licence.

With the greatest of respect, it appears that sight has been lost of the fact that hackney carriage and private hire drivers are not social workers or police officers and do not need to be experts in the subject of child sexual exploitation.

The course, whether it is delivered online or in a classroom environment, is intended to raise an applicant's awareness of a subject about which they are unlikely to have any prior experience or knowledge.

As the intention is to raise awareness, it is respectfully submitted that providing this training after a person has secured a driver's licence is likely to be more effective, as the scenarios depicted in the awareness training will then be scenarios that the recently licensed driver will then relate to, which they are unlikely to do when the training is provided pre-licensing.

Pre-licensing, an applicant is probably more focussed on passing the knowledge test and securing the prompt production of their medical certificate and criminal record check in order that they may become licensed. Adding a requirement to undertake an awareness course, upon which they are not currently tested, may well be regarded as being merely a 'box ticking exercise'.

My clients appreciate the Council might seek to avoid the risk of the awareness training being regarded as a 'box ticking exercise' by incorporating questions about the course into the knowledge test, but to do so changes the nature of the course from awareness raising to a test. Unless told otherwise, it is very much doubted that social workers, police officers or even licensing officers or Members of the Regulation and Review Committee will ever be tested on this subject, despite each having a statutory duty to protect the public.

In all the circumstances, my clients ask that the Council continue to permit applicants to undertake the CSE awareness training course after they have become licensed.

Q3: To what extent do you agree or disagree that new hackney carriage and private hire drivers should be required to complete a [child] sexual exploitation awareness refresher package every three years and existing drivers at their next DBS check?

A3: To use an answer provided to the online questionnaire, my clients 'strongly disagree' with the proposal that drivers should be required to undertake a CSE awareness training course whenever they undertake a DBS check.

With the greatest of respect, the training that has already been provided to licensed drivers was intended to raise awareness, not to make drivers experts in CSE.

Whilst not suggesting that drivers should be required to retake the knowledge test, it is submitted that as drivers are not required to retake the knowledge test, presumably because their knowledge should grow with the experience of 'doing the job', there would seem to be no reason to suspect that a driver's knowledge and awareness of CSE should diminish.

In all the circumstances, my clients asks the Council to retain its current policy, which does not require drivers to repeatedly attend CSE awareness refresher training courses every three years.

Although not a matter raised by the online questionnaire, my clients would prefer for applicants to be required to attend a classroom based course, as has been required to

date, because then the Council can be sure that all applicants have, at the very least attended, even though some will, no doubt, pay less attention than others. If a newly licensed driver appears not to be paying attention to the course, it might be because they already have some knowledge of the subject and / or realise that most of the course content is common sense. On the other hand, it is going to be more difficult, even potentially impossible without incorporating questions into the knowledge test, to ensure that a newly licensed driver has completed the online CSE awareness course. And, as said before, if the course should be undertaken after an applicant has been issued a licence, it is impossible to incorporate questions about CSE awareness into the knowledge test undertaken before an applicant is issued a licence.

If I can clarify or expand upon anything herein, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink that reads "David B. Wilson". The signature is written in a cursive, slightly slanted style.

David B Wilson

Licensing Consultant, Mediator and Trainer
Consulting Editor, Paterson's Licensing Acts 2015-18
Contributing Author, LexisPSL

Email: david.wilson@a2zlicensing.co.uk
Mobile: 07794 776383

Hi Alan, In relation to the 2 questions , I strongly agree with the proposal that it is included in the licensing procedures that CSE awareness training has to be completed prior to a license being issued, rather than the current procedure of 'within 3 months'.

In relation to the need to complete refresher awareness training, I agree this would be good practice. It would mean drivers going back to the e learning which is unlikely to have been changed so it would be just a refresher. I looked at other local authorities and some have this requirement. Alternatively the LSCB could circulate an annual email to firms, as a reminder to pass on to drivers.

Thanks, Sue

Sue Burns
LSCB Business Manager
0191 6437391