

Report

Report of a review of the carrying out of hackney carriage and private hire licensing functions by South Ribble Borough Council

17th June 2016

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1. **Executive summary**

- 1.1 South Ribble Borough Council (the Council) is responsible within its area for the licensing and regulation of taxis. These licensing functions are carried out by a General Licensing Committee and a small team of Council officers. The Council must ensure that only persons who are “fit and proper” are granted a taxi driver’s licence. The test of suitability is generally accepted to be whether the decision maker would allow a member of their family or other person for whom they care to get into a vehicle alone with the driver.
- 1.2 In carrying out its functions, such as taxi licensing, the Council must also ensure that it has regard to the need to safeguard and promote the welfare of children.
- 1.3 In late July and early August 2015, some officers and some members of the Council expressed concern about decisions to renew the licences of certain taxi drivers where there were potential incidents of what was described in the Council at that point as child sexual exploitation (CSE). The Local Safeguarding Children Board has since indicated that its review identified one concern in respect of potential grooming but no other case raised concerns linked to CSE.
- 1.4 As a result of the concerns expressed by officers and members, the Council’s Monitoring Officer conducted a fact finding exercise into the investigation of (a) taxi licence cases where, as he expressed it, CSE considerations formed part of the investigation, (b) data sharing between the Council and external bodies where CSE was alleged, and (c) the recording of data onto the Council’s licensing IT system.
- 1.5 A planned and unrelated internal audit study took place in early November 2015. The auditors reported that they were unable to provide assurance that that relevant documentation had been received to support applications for taxi licences or renewals in all cases. The audit report also found that there was no formal record of pro-active enforcement activity.
- 1.6 The Monitoring Officer provided a written report to an informal meeting of members of the Council’s Cabinet later that month in which he indicated that, based on the cases he had reviewed, there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.
- 1.7 Members of the Cabinet agreed on an external review of the licensing function. We were commissioned to carry out that review and provided an interim report of our findings at the end of December 2015. This contained a number of recommendations all of which the Council has implemented, or will implement shortly as part of a range of assurance and improvement measures which include the involvement of external partners.
- 1.8 Subsequently we were instructed to carry out a disciplinary investigation in respect of licensing staff. This investigation has been completed and the Council is now considering the evidence obtained.

- 1.9 The Council asked us to complete a final report of our review and this is that report. We identified the following concerns:-
- (a) frustrations by Council staff about the introduction of a new IT system had resulted in some licence applications being completed without the correct documentation in place;
 - (b) investigations into concerns about taxi drivers (if carried out at all) appeared to lack structure and record keeping was poor;
 - (c) liaison with other agencies such as the police took place but lacked structure;
 - (d) a practice of issuing a licence without seeing a Disclosure and Barring Certificate had been the norm, but was stopped by staff before our involvement with the Council;
- 1.10 Our conclusions are that there had been a lack of awareness and priority given to safeguarding and the safety of taxi passengers in the manner in which licensing issues were addressed in the period we examined, however that was some 6 months ago.
- 1.11 The Council has been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.

2. Background

- 2.1 The Council is responsible within its area for the licensing and regulation of hackney carriages and private hire vehicles (collectively referred to as taxis), their drivers and operators. Taxi licensing functions are discharged by the Council's General Licensing Committee (GLC) and officers working within the Directorate of Neighbourhoods, Environmental Health and Assets in what is referred to in this report as the Licensing Team.
- 2.2 In late July and early August 2015, some senior officers in the Council began to discuss issues relating to the GLC. Concerns were expressed by some officers and some members of the Cabinet about some decisions made by the Committee, including the renewal of taxi drivers' licences where potential incidents of what was described in the Council at that point as child sexual exploitation (CSE) had been reported.
- 2.3 Under section 5 of the Local Government and Housing Act 1989, the Council's Monitoring Officer (MO) has a personal duty to report either to full Council or the Council's Cabinet (depending on the relevant area of the Council's functions) where (in broad terms) it appears to him that any proposal, decision or omission by the Council has or is likely to give rise to a contravention of the law. Before making a report, the MO must consult the Council's Head of Paid Service and its Chief Finance Officer. The Council has designated its Director of Corporate Governance and Business Transformation as MO and its Chief Executive as both Head of Paid Service and Chief Finance Officer.
- 2.4 The effect of a report under section 5 of the Local Government and Housing Act 1989 is to prevent the implementation of a decision until the report has been considered. In practice, the section 5 duty requires MOs to maintain a proactive approach to investigating and resolving possible compliance issues and it is rare for a MO to present a formal report as the first step without drawing prior attention to their concerns and seeking first to persuade and influence decision makers. A section 5 report is therefore normally seen as an ultimate step where action is required to compel members to reconsider a particular course of action which might be unlawful.
- 2.5 The MO decided to conduct a fact finding exercise relating to:-
- (a) the investigation of taxi licence cases where, as he expressed it, CSE considerations formed part of the investigation;
 - (b) data sharing between the Council and external bodies where CSE was alleged; and
 - (c) the recording of data onto the Council's licensing IT system, called Lalpac.
- 2.6 On 3rd November 2015 a report of a planned and unrelated internal audit of the Licensing Team was completed. The audit report highlighted concerns relating to taxi licensing. Amongst other issues, the auditors reported that they were unable to provide assurance that relevant documentation had been received to support applications for taxi licences or renewals in all cases. The report also found that there was no formal schedule or monitoring record of pro-active enforcement activity.

- 2.7 The MO provided a written report of the findings of his fact finding exercise to an informal meeting of members of the Cabinet held on 10th November. This was not a formal report under section 5 of the Local Government and Housing Act 1989, but was intended to draw concerns to their attention and to seek approval to identify and agree corrective actions to ensure compliance.
- 2.8 The MO's report related mainly to the extent of investigation by the Licensing Team of two cases, the extent of information provided to the GLC about one of those cases, the provision of information to the Council by Lancashire Constabulary and the extent of recording of information on Lalpac. In the light of these concerns, members of Cabinet decided that a number of aspects of the Council's handling of what it termed CSE and taxi licensing matters be reviewed externally.
- 2.9 The MO instructed Wilkin Chapman LLP to complete an initial review of licensing together with recommendations (the Interim Report). We completed the Interim Report on 22nd December 2015. The report was confidential and intended to remain so because it related to potential disciplinary investigations in respect of individual staff.
- 2.10 Our findings highlighted areas of concern relating to record keeping, investigation of allegations against drivers, the processing of incomplete licence applications, a lack of understanding of an associated IT system and insufficient content in officer reports to the GLC. The Interim Report made a number of recommendations to address these issues including that the Council consider commencing disciplinary procedures in respect of three members of staff working in the Licensing Team.
- 2.11 The Council commenced disciplinary procedures in respect of the members of staff and instructed us to undertake the associated investigations on 13th January 2016. Two staff were placed on suspension and another moved to other duties. An interim licensing manager was engaged and additional assistance provided by an officer on temporary secondment from another local authority. The disciplinary investigations were completed on 17th May and the Council is now considering the outcome of these.
- 2.12 An unauthorised disclosure to the media of our confidential Interim Report took place in mid April 2016. There was considerable local and national press interest, not all of it wholly accurate. The Council took a range of assurance measures in relation to the matters covered in the Interim Report, including working with a small task group comprising the chair of the Lancashire Safeguarding Children Board (LSCB) and representatives of Lancashire County Council and Lancashire Constabulary.
- 2.13 This report is a final report provided by Wilkin Chapman LLP at the request of the Council's Chief Executive in respect of the matters known to us in the course of our work for the Council. Whilst a number of cases of the licensing of individual taxi drivers were considered by us and Council staff, the focus of this report is at a strategic level and no reference is made to any particular case or cases.

3. CSE, Safeguarding and Taxi Licensing

- 3.1 CSE is a form of child abuse. HM Government has recently consulted on the definition of CSE¹ but it is currently defined² as occurring where anyone under the age of 18 is persuaded, coerced or forced into sexual activity in exchange for, amongst other things, money, drugs/alcohol, gifts, affection or status.
- 3.2 Safeguarding and promoting the welfare of children (often abbreviated to “safeguarding”) is defined by statutory guidance as *“protecting children from maltreatment, preventing impairment of children’s health or development, ensuring that children are growing up in circumstances consistent with the provision of safe and effective care and taking action to enable all children to have the best life chances”*³.
- 3.3 Section 11 of the Children Act 2004 places a statutory duty on local authorities to make arrangements to ensure that in discharging its functions they have regard to the need to safeguard and promote the welfare of children. Primary responsibility for the investigation of allegations of abuse or neglect of children rests with the police and social services authorities. In the district of South Ribble, Lancashire County Council is the social services authority. However, all local authorities have a responsibility to have regard to safeguarding in the exercise of their functions.
- 3.4 In 2014 and 2015, two reports relating to Rotherham Metropolitan Borough Council received widespread media attention and placed local authorities on notice generally of the need to consider CSE and safeguarding issues in relation to their functions, including taxi licensing.
- 3.5 A report by Alexis Jay OBE highlighted the prominent role of taxi drivers in Rotherham in acts of CSE⁴. The Secretary of State subsequently appointed Louise Casey CB to carry out an inspection of Rotherham Council in relation to the exercise of its functions on governance, children and young people, and taxi licensing. Amongst other things, her report⁵ noted specific cases of concern where customer complaints about taxi drivers had not been investigated adequately or at all and a failure to follow through concerns and complaints into action. Where cases had been referred to the police, no further action by the police was used as a basis for closing the case in the licensing team, even though a lower threshold of proof applied.
- 3.6 Although CSE and safeguarding have different meanings, both include the potential sexual abuse of children. Both terms have been used widely both inside and outside the Council in relation to the concerns raised, especially after the Interim Report was leaked to the press in mid April 2016.

¹ Statutory definition of child sexual exploitation – Government consultation, 12th February 2016 HM Government

² Safeguarding Children and Young People from Sexual Exploitation, supplementary guidance to Working Together to Safeguard Children, Department for Children, Schools and Families 2009

³ Working together to safeguard children, HM Government March 2015 - glossary

⁴ Independent Inquiry into Child Sexual Exploitation in Rotherham 1997 - 2013, published on 26th August 2014 by Rotherham Metropolitan Borough Council

⁵ Report of Inspection of Rotherham Metropolitan Borough Council, published on 4th February 2015 by HMSO

- 3.7 The Independent Chair to the LSCB said in her letter⁶ of 18th May to her colleagues including the Chief Executive of the Council, *“Much press interest followed with headlines referencing a [CSE] scandal akin to that in Rotherham. The reality is far from this. In the review of four years practice, one concern in respect of potential grooming has been identified. No other case raised concerns linked to CSE”*.
- 3.8 However, it is apparent that the matters referred to by the MO and then subsequently considered were safeguarding issues. It is also apparent that given the findings of the Casey Report, the MO was understandably highly concerned to establish whether allegations against drivers involving these issues were being addressed adequately by the Council.

⁶ Letter dated 18th May 2016 from Jane Booth, Independent Chair, Lancashire Safeguarding Children Board

4. **Safeguarding and Community Safety.**

- 4.1 The overriding aim of local authority taxi licensing is to protect the public. As such safeguarding and community safety must be at the forefront of not only taxi licensing but also Council strategy and subsequent policy as a whole.
- 4.2 The Local Government Association (LGA) provides guidance as to safeguarding at a policy level⁷. This calls for a clear commitment at senior management level demonstrating the importance of safeguarding and promoting children's welfare and importantly a clear line of accountability within the organisation.
- 4.3 The LGA defines community safety in the following terms:

“Community Safety is the use of skills, knowledge and techniques, to prevent and reduce crime, disorder and fear of crime and develop safer communities in which to live, work and visit.”⁸

The Council

- 4.4 Community safety is mentioned within the 'Clean, Green and Safe' heading in the Council's current three year Corporate Plan 2016 – 2019.
- 4.5 The Chorley and South Ribble Community Safety Partnership Action Plan 2015/16 has a number of actions concerning CSE. One action specific to licensing is regarding the safeguarding of passengers and drivers.
- 4.6 The Council has a Safeguarding Children Policy. The policy highlights the responsibility of all employees to report concerns of suspected abuse or poor practice to the designated officers. In addition to this all employees must ensure that they undertake and refresh safeguarding training appropriate to their role and responsibilities.
- 4.7 The Licensing Team has the responsibility of considering the concept of 'fit and proper person to hold a drivers licence'⁹. The term can be best explained by using the more modern term 'safe and suitable person to hold a drivers licence'. In addition to this the safety and suitability test is generally accepted to be as follows:

“Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage drivers licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”¹⁰

- 4.8 The standard of proof in determining whether or not a person is, or remains, a fit and proper person to hold a taxi licence is a civil standard. In other words the determination is made on the balance of probabilities.

⁷ The role of district councils in safeguarding children – Local Government Association website

⁸ Community Safety – councillor workbook, Local Government Association October 2012

⁹ Sections 55 (for private hire vehicles) and 59(1)(a) (for hackney carriage drivers) of the Local Government (Miscellaneous Provisions) Act 1976

¹⁰ Button on Taxis – Licensing Law and Practice 3rd Ed, Tottel - para 10.61

- 4.9 On application for a new licence the onus lies on the applicant to prove their fitness and propriety. However once the licence has been issued, if the Council wishes to suspend, refuse or revoke the onus is on it to demonstrate that the applicant is no longer a fit and proper person.
- 4.10 It is normal for local authority to have in place a taxi licensing policy to support and guide decision making on individual applications. The Council lacked such a policy. A draft policy was agreed by the GLC at its meeting on 24th November 2015 for adoption by full Council.
- 4.11 Licensing staff explained to us that the draft policy had been derived from minutes from previous GLC meetings. Given that there have been questions as to the quality of decision making by the GLC in the past, we were concerned that such a policy might reflect past decision making by members rather than set out a principle based approach.
- 4.12 Whilst we understand the draft licensing policy agreed by the GLC formed the basis for subsequent public consultation, the Chief Executive has indicated that adoption of the policy was delayed to incorporate any findings from this report. He also indicated that peer review of the draft was being arranged through the LGA together with input from external legal specialists. The Council may also wish to benchmark the draft against other Lancashire authorities through an existing project with the Office of the Police and Crime Commissioner to improve the consistency and approach in dealing with licensing matters.
- 4.13 We understand that a revised draft policy will be considered by the GLC to be recommended to Council at its meeting on 20th July 2016.

5. **The Internal Audit Report**

- 5.1 The licensing function was subject of an internal audit commencing in June 2015 and concluding in early September. The final report identified a number of areas of concern and gave a controls assurance rating of red (7 out of a possible maximum score of 9) for the following reasons which included:-
- (a) the lack of a taxi licensing policy (though this was in development);
 - (b) audit was unable to provide assurance that all relevant documentation had been received for all taxi licence applications/renewals;
 - (c) pro-active enforcement activity was sporadic and unstructured.

Annual Audit Programme

- 5.2 The Licensing Team was identified in January 2015 for an audit during the course of risk assessment work conducted by the Internal Audit Section and included in the annual audit programme for that year, agreed at the Council's Governance Committee on 15th April 2015. It is understood that the risk assessment was part of an annual programme to determine whether departments were effectively managed and whether there was an acceptable level of control present within those departments.

Risk Assessment/Public Safety

- 5.3 It would appear however that although the term 'risk' was used, it had little to do with public safety. In fact as far as licensing was concerned the audit was based on only the fact that there had been a change of management both operationally and strategically and that licensing applications were now processed differently.
- 5.4 The final audit report was issued on 3rd November 2015. It is understood that additional resources were put into the Licensing Team in November in an effort to address some of the issues identified, particularly on clearing a significant backlog of filing and the entering of data onto Lalpac. The audit recommendations were the subject of an implementation plan. The Council has provided us with a current version of the implementation plan which shows that all the audit recommendations have been addressed apart from the adoption of a taxi licensing policy which is due to be finalised this July as referred to above. A copy of the implementation plan is enclosed at annexe 1.

6. **Actions by the Monitoring Officer**

- 6.1 Separately to the internal audit report, the MO formed concerns as to the manner in which two separate cases of apparent CSE and/or safeguarding involving two taxi drivers were investigated by licensing staff and reported to the GLC.
- 6.2 These concerns arose from a fact finding investigation by the MO which his records indicate he discussed with the Chief Executive at a meeting on 23rd July 2015, though the Chief Executive has no record or recollection of this. Initially, the MO's concerns were regarding decision making by the GLC. The MO's notes indicate he attended a meeting on 3rd August 2015 called by the relevant strategic director at which a reference was made to the GLC dealing with a "CSE case". The MO decided that he needed to investigate this matter and informed the Chief Executive of this on 18th August.
- 6.3 The MO's notes record that he indicated to the Chief Executive on 18th August that he was looking into whether Council officers had completed an investigation of allegations made of CSE against a taxi driver. The MO also indicated that he had briefed the Leader of the Council prior to her going away on leave.
- 6.4 The MO's records indicate that he and Chief Executive met a senior police officer on 22nd October 2015 to consider information sharing arrangements. Several cases of concern relating to drivers were discussed, though this was a brief meeting to arrange for an appropriate contact for the MO to progress matters. The MO's records indicate that he obtained information on some cases from the police later that day.
- 6.5 Subsequently, the MO provided a written report to members of the Cabinet at an informal meeting held after a workshop on 10 November 2015. The main purpose of the MO's report was expressed to be "highlight deficiencies, flaws or gaps in service provision, specifically data gathering and investigation standards in the Licensing Service". The report expressed the view that based on cases reviewed insufficient investigations had been conducted by Council officers in respect of some cases and that some information relating to drivers was not present on Lalpac.
- 6.6 In particular, the MO's report indicated that based on cases reviewed there had been failings during local investigatory procedures which might have adversely affected the GLC's ability to make appropriately informed decisions. In particular:
- no interview under caution was carried out with a driver;
 - no witness statement was taken from victims;
 - no significant intelligence sharing took place with the police;
 - irrelevant information/evidence was put to the GLC;
 - relevant information/evidence was not put to the GLC;
 - licensing officers appeared to allow the police investigation to lead their own, which was not appropriate when considering the two different standards of proof applicable.

- 6.7 The MO's report also indicated that information sharing with the Police had not been satisfactory. He recommended that an enhanced intelligence and data sharing protocol, similar to what was already used in neighbouring councils should be developed.
- 6.8 The MO went on to report that data recording procedures, particularly involving Lalpac were not satisfactory. Taxi licenses had been awarded where evidence of a medical report or Disclosure and Barring Service (DBS) check was not present on the IT System. Although the evidence might exist in physical form, this procedural failing was of concern.
- 6.9 Members of Cabinet received the report and agreed:
- (1) *That a review of all cases involving CSE allegations is undertaken to include a robust investigation.*
 - *Should any new material evidence come to light the case is referred back to Committee.*
 - (2) *That LALPAC is interrogated to ensure all necessary evidence is recorded on the IT system.*
 - (3) *That an end-to-end operational review of licensing is undertaken:*
 - *Including developing a robust and documented local investigation with protocols in place for data and intelligence sharing with the Police.*
 - (4) *That the role of enforcement be separated from application processing and award.*
 - (5) *That the Council's Safeguarding Policy is reviewed and amended as necessary.*
 - (6) *That further CSE awareness sessions are held for front facing staff.*
- 6.10 It was further agreed that the then Deputy Leader of the Council be the lead member supporting the MO. We understand that the Leader, the portfolio holder for licensing and the Chief Executive were asked at that meeting to step aside from involvement in licensing matters.
- 6.11 On 11th November 2015 a further meeting took place between the MO and some Cabinet members. In addition to this we understand that the MO provided a copy of his report to the Leader of the Opposition to read, but not retain. The MO has indicated that his report was discussed with the councillors and a way forward was agreed.

- 6.12 On 12th November, the MO emailed another officer indicating that the Cabinet had agreed that the Leader of the Council, the then portfolio member for licensing and the Chief Executive were to have no communications with officers regarding licensing issues to allow an investigation to take place in as transparent a way as possible. The Chief Executive and Leader became involved again on 12th April 2016 when the MO requested that they attend a meeting with us and the then Deputy Leader. In accordance with the instructions of the Chairman of the Council's Scrutiny Committee, since 8th May our sole contact with the Council (other than on staff disciplinary investigations) has been the Chief Executive.
- 6.13 The MO, Deputy Leader and other members of Cabinet met with us on 18th November and we were subsequently instructed by the MO to conduct an interim review of the licensing function as part of fulfilling overall terms of reference (set out in section 6 below). The MO has indicated that a further meeting of Cabinet members and the Leader of the Opposition took place on 24th November.
- 6.14 Operational issues arising in the licensing function were identified and addressed by the MO and the Director of Neighbourhoods, Environmental Health and Assets through Council and interim staff throughout the period covered by this report. This included the revocation of some driver's licenses (including the preparation for one appeal to the Magistrates Court), the review of others and further assurance exercises on Lalpac records, particularly relating to Disclosure and Barring Service certificates and modified vehicles.

7. The Interim Report

- 7.1 The MO, in consultation with the Deputy Leader prepared the following terms of reference:-

Child Sexual Exploitation – Safeguarding of Children and Vulnerable People

1. *Examine the Council's existing approach to investigations pertaining to CSE allegations, providing recommendations for remedial actions to ensure future CSE investigations are fit for purpose.*
2. *Review local investigations of the three CSE cases – reporting any deficiencies, errors, failings or technical (legal or otherwise) lapses that might undermine submissions to the Committee.*
3. *Review the existing end-to-end process for data recording, intelligence sharing and any local protocols with the Police and any other bodies used to support investigations.*
4. *Review the Council's Safeguarding policy and methodology/process for ensuring compliance throughout the Council.*

End to End Licensing Service Review

5. *In light of the above, review existing licensing service policies, processes and general standards, reporting where improvements are required.*

Performance

6. *Review the performance and accountability of the full chain of command with particular emphasis on:-*
 - (a) *Individual and line management performance pertaining to the CSE cases;*
 - (b) *Individual and line management understanding of the end-to end licensing process;*
 - (c) *Recording of information, both clerical files and data input to IT Systems.*

Monitoring Officer Investigation

7. *Review the investigation undertaken by the Monitoring Officer on any issues and concerns.*

Conclusions

8. *In light of the above, advise what action(s) the Council must consider, including timescales.*

- 7.2 It is understood that these terms of reference were subject of review by the MO in the light of work conducted and findings reached and might be modified to provide, for example, external peer review of some elements through the LGA. We understand from the Chief Executive that the Council has:-
- (a) now been working with the LGA;
 - (b) has agreed with the LSCB that the Council's annual self assessment of safeguarding arrangements will be included in the 2016-17 round of challenge by the LSCB. This self assessment was not due for challenge by the LSCB this year, but the Council has requested that it be so included.
- 7.3 The Chief Executive has provided a letter dated 18th May 2016 from the Chair of the LSCB setting out the outcome of a review conducted by the multi agency task group referred to in paragraph 1.11 above¹¹. The conclusions of this group are set out in a later section in this report, but this work and the work referred to above suggests that many of the areas covered in the terms of reference have now been addressed.
- 7.4 To complete this initial work, face to face interviews were conducted with a significant number of staff including identified Councillors. Documents concerning structure and practices were viewed in an effort to underpin the verbal accounts.
- 7.5 We provided a verbal update of initial findings to the MO on 3rd December 2015. We expressed concern that the Council's current licensing arrangements were not working satisfactorily and suggested that all driver records be checked. The MO instructed an immediate check of all taxi drivers licensed by the Council to ensure (a) that a DBS certificate was in place for each one and (b) that any risks identified by those certificates (or lack of certificate) had been identified. This was followed by a meeting in person on 7th December 2015 when the MO and one member met with representatives from Wilkin Chapman. Minutes were kept of this meeting.
- 7.6 A draft Interim Report together with recommendations was completed on 7th December and finalised on 22nd December 2015. The recommendations included:
- R1 - ensure that all records relating to the licensing function are collated and properly filed as quickly as possible;
 - R2 - identify any missing information and/or documentation and to take immediate steps to complete records;
 - R3 - identify any risks to the public arising from any information held (or received by the preceding bullet point) and to capture those risks on the Council's corporate risk register identifying further actions needed;

¹¹ Letter dated 18th May 2016 from Jane Booth, Independent Chair, Lancashire Safeguarding Children Board

R4 - ensure that the Licensing Unit and its three staff (and others with line management responsibility within the directorate) fully understand the primary purpose of the taxi licensing function;

R5 - ensure that all members of the GLC understand the primary purpose of the taxi licensing function and the quasi-judicial nature of the role of the GLC;

R6 - require all members of the GLC (and relevant officers) to complete appropriate training as quickly as possible;

R7 - consider the commencement of disciplinary action against all three officers in the Licensing Unit in view of record keeping, investigation and application issues;

R8 - the size and place of the licensing function in the corporate structure be reviewed;

R9 - a process be put in place specifically designed to trigger safeguarding and golden hour actions in order to link or isolate cases for early positive interventions;

R10 - the provision of automatic linkages between Firmstep and Lalpac be explored to streamline processes and to minimise risks of losing essential information;

R11 - the role of the GLC be reviewed in terms of its function and delegations to named officer(s) to emphasise the quasi-judicial nature of the GLC's core purpose;

R12 - a procedure be established for the manner in which reports to the GLC will be considered to provide for an order of business, rules on representation and time limits and clarity on irrelevant and/or inappropriate statements and comments; and

R13 - a standard template for reports to the GLC be created to ensure consistency of approach. The template should provide for the inclusion of professional advice and specific recommendations to the GLC and for a section from Legal Services on the legality and general compliance of recommendations with corporate and legislative requirements and best practice guidance.

7.7 All of the above recommendations are subject to an implementation plan. The Chief Executive has provided a current version of the implementation plan which is enclosed at annexe 2. This includes further information provided by the MO. The plan and MO's comments indicate that action has been taken to implement or respond to all recommendations.

8. Disciplinary Investigation

- 8.1 We were instructed separately by the Council to investigate a number of concerns from employment disciplinary/conduct perspective and, separately to this report, we have produced reports from our discipline investigation. Those reports have been received by the Council although we have been informed that, as at the date of writing this report, disciplinary proceedings have not been concluded. It is important that we acknowledge this at the beginning of this section of the report and that our conclusions here are and remain subject to challenge or objection in any future or ongoing disciplinary proceedings.
- 8.2 The discipline investigation reports followed our investigation into allegations that either no or inadequate investigations into concerns as to whether the driver was a fit and proper person had taken place.
- 8.3 In addition to this the discipline investigation considered a sample of cases where Hackney Carriage Driver (HCD) or Private Hire Driver (PHD) and/or both had allegedly been issued at the point of renewal without the correct documentation in place. Nine of these concern the renewal of licences without a DBS Certificate being seen.
- 8.4 Other issues relevant to the work of the licensing team which arose in the course of the disciplinary investigation were also considered. Those issues are discussed within this report.
- 8.5 It is appropriate that issues of conduct or culpability of individual employees is considered separately by the Council in accordance with its disciplinary procedures. However it important that we highlight a number of concerns that we have arising out of our investigation, which without attaching blame or culpability (as that would not be appropriate in this report) should assist the Council in considering the operation of its taxi licensing function.

Singh Decision

- 8.6 The *Singh* case was cited as a reason not to take certain actions with regards revocation. If this was the case we are concerned that it appeared to cloud officers' judgments when making decisions and briefing senior officers. James Button, solicitor and author of *Button on Taxis*, provided advice to the Council in December 2015 on this issue:

"The case of R (app Singh) v Cardiff City Council [2012] 1852 (Admin) 23 May 2012 makes it clear that a local authority does not have the power to suspend a driver's licence and then subsequently revoke it following their own investigation. Once a decision to suspend has been taken, the authority has no further powers in relation to that licence. As a secondary, but also important point, the decision makes it clear that suspension of a driver's licence can be used as a punishment....."

The Singh decision does not prevent revocation of a drivers licence. Indeed, I would submit that it requires revocation in any case where the evidence is such that the authority feels that it is necessary to prevent a person from acting as a taxi driver".

- 8.7 James Button made it clear that although the Singh case did have implications for the Council it was not a reason to impede correct action at the time.

Safeguarding

- 8.8 The discipline investigation caused us significant concerns regarding safeguarding awareness. In addition it was not apparent to us that community safety and safeguarding had sufficient prominence within the Council's corporate plan.
- 8.9 We note that Key Action 6 in the plan under the "Clean, Green and Safe" priorities is "*through the safer Chorley and South Ribble Partnership, work to tackle crime, fear of crime and promote public confidence*"¹². We also note that priority 3 in the Community Safety Partnership action plan relates to CSE and includes Output 3.5 to "*review the sharing of information between departments e.g. licensing (EH) and community safety partners*" and Output 3.6 "*CSE task group to identify suitable package of training to be offered to all licensed services to ensure those organisations and individuals providing licensed services are aware of vetting procedures and duties of care*".
- 8.10 Whilst the Council's corporate plan is a high level document, references to community safety in it have changed little since 2013 and this is surprising considering the increased focus on safeguarding issues for district councils as a result of the Jay and Casey Reports.
- 8.11 The evidence gathered during the discipline investigation indicated that there was limited awareness and priority given to safeguarding. When witnesses were seen at the early part of the investigation, it was surprising to hear different names being given as to who had the safeguarding lead within the Council.

Legal advice

- 8.12 In our view there appeared to have been an overly informal approach to seeking legal advice, the majority of which appeared unrecorded on Lalpac, and an erroneous view of stated legal cases (*Singh*) concerning taxi licensing.
- 8.13 Those tasked with providing legal advice to taxi licensing appeared to lack experience of that area of law and practice. The relationship between legal advisors and licensing officers once the licensing function moved from the Legal Section to the Neighbourhood Directorate in July 2013 appeared to be unclear. Instead of being seen as clients and advice being given formally, there appeared to be a relaxed and informal relationship and no structure to how and when advice would be given and how this would be recorded.

Management

- 8.14 Leadership within taxi licensing appeared inconsistent. The strategic director was the chair of the Community Safety Partnership from April 2014 to March 2016 and therefore had experience of community safety matters, he did not have any previous knowledge of taxi licensing and as such was reliant on his manager and officers to brief him on significant issues. The audit findings

¹² South Ribble Borough Council Corporate Plans 2013-204, 2014-2015 and 2016-2019

were an example of this. The briefing by the manager led the director to assume that the conclusions reached by the audit officer were in fact wrong. Although the manager was invited to provide further evidence to support her comments, the audit conclusions and recommendations never changed.

- 8.15 The manager was also inexperienced in taxi licensing. Annual appraisals of licensing staff were completed without access to Lalpac, scrutiny of which would have provided evidence that operational policy and procedure was not being complied with.
- 8.16 We have raised, as part of the discipline investigation, concerns in relation to the investigatory process undertaken within licensing.
- 8.17 Operational practices with regards renewal identified a lack of safeguarding awareness and risked contravention of the Council's safeguarding policy.

General Licensing Committee

- 8.18 Our concerns about a lack of safeguarding awareness are not limited to taxi licensing staff. Whilst we did not speak to members of the GLC, evidence gathered suggested that despite CSE training with a police trainer being provided on 21st July 2015, inappropriate language was used during the committee meeting that followed, surprising the officers and some Cabinet members who were present.

Gateway/Firmstep and Lalpac

- 8.19 The Council operates a dual system for applications for taxi licences. The Council's Gateway (front desk) staff receive applications and upload forms and supporting information onto their IT system, called Firmstep. The Licensing Team then process applications by manually transferring data from Firmstep onto the team's own Lalpac software to process the application and produce the taxi licence.
- 8.20 The discipline investigation identified frustrations from all parties within the application process. Licensing staff were of the view that Gateway staff and those charged with introducing the IT systems were not aware of the complexities of taxi licensing law. In turn others believed that the licensing staff were resistant to further integration of Gateway and Firmstep into the licensing process.
- 8.21 We formed concerns from our discipline investigation that this had resulted in a practice of licensing staff going outside agreed process, and applications being completed without the correct documentation in place. The outcome of this was that information was not correctly inputted within Lalpac and significant renewal dates, certainly regarding DBS certificates had been missed.

Taxi licensing practice

- 8.22 The lack of consistent practice within taxi licensing had a significant impact on day to day operations. Other than a certain uniformity in Police and Criminal Evidence Act 1984 (PACE) note books, mostly concerning enforcement, record keeping was poor.

- 8.23 We have noted our concerns in the discipline investigation that investigations (if carried out at all), appeared to lack structure with no priority given to lines of enquiry. Other than some notes on Lalpac, we saw no investigation logs. We saw no evidence in certain cases of follow up to convictions and/or arrests.
- 8.24 Liaison with other agencies including the police took place but lacked structure. There appeared to be no follow up or agreed process for information sharing and certainly no protocol or guidance to officers regarding the disclosure of sensitive matters.
- 8.25 The issue of issuing a licence without a DBS certificate being seen was not new. It was a practice used by licensing when under the line management of the Legal Department. We are also aware that the practice is used by other authorities in exceptional circumstances. However instead of being the exception it became the norm for a number of renewals until it was stopped by the manager in October 2015, before our involvement with the Council.

Modified vehicles

- 8.26 Separately from the discipline investigation, Council staff checking licensing records highlighted in March 2016 that some modified taxis had been licensed without the correct Driver and Vehicle Standards Agency Individual Vehicle Approval (IVA) certificate. An IVA certificate is used when a taxi has been modified, for example by the installation of a different seating arrangement from that fitted by the original manufacturer or a wheelchair lift. The IVA certificate indicates that the taxi complies with regulations for road vehicles.
- 8.27 This information resulted in immediate action by the Council resulting in the revocation of a number of licences pending the provision by the operator of appropriate IVA certificates. Questions were then put to licensing staff as an extension to the disciplinary investigation.
- 8.28 The taxi vehicle licence application process does require a road worthiness certificate to be seen. In fact the application process cannot proceed without this. The certificate is basically an MOT for taxis and carried out by a local approved garage.
- 8.29 However, the application process does not require the sight of the IVA certificate nor is there any local policy which states that such a certificate should be seen. In addition we are not aware of a requirement within any national guidance that such a certificate should be seen by the licensing officers.
- 8.30 Although we are aware that the modified taxi issue did cause the Council some difficulty we are of the view that this was a policy issue and not a disciplinary matter.

9. **Lancashire Safeguarding Children Board review**

- 9.1 We were provided with a copy of a letter from the chair of the LSCB indicating steps taken and conclusions reached as a result of a review by a small multi agency task group¹³.
- 9.2 The LSCB letter indicates that there was evidence of inconsistent responses by not only the Council but also the police and Lancashire County Council and examples of poor or patchy communication but in all cases steps were taken to protect vulnerable children pending investigation.
- 9.3 The letter indicated that whilst questions could be raised about decision making, the application of the fit person test was a matter for the GLC and required a difficult balancing of risks.
- 9.4 The letter indicates that any issues and lessons learned for all partners will be addressed by a multi-agency action plan with completion monitored by the LSCB. Though the action plan has not been provided, it is reasonable to assume the Board will ensure that it is implemented in a full and timely manner.

¹³ Letter dated 18th May 2016 from Jane Booth, Independent Chair, Lancashire Safeguarding Children Board

10. **Conclusions and Recommendations**

- 10.1 A lack of awareness and priority given to safeguarding and the safety of taxi passengers was apparent in the manner in which licensing issues were addressed in the period we examined in the Interim Report and the disciplinary investigation, which was largely some six months ago.
- 10.2 Operational issues concerning the processing and consideration of licence applications can be resolved quickly with policy and guidance. Complementing this, training can be given to ensure that officers understand the IT function and its capabilities. Both are now subject of recommendations which the Council is actively addressing.
- 10.3 The Council has been active at every stage in responding to issues and concerns identified by senior officers and members and subsequently in our Interim Report. Since the issuing of that report, the Council has taken steps to address operational issues with the licensing function and has engaged fully with the LSCB and other agencies.

Recommendations

- 10.4 In the light of the above, it is not considered necessary to make any further recommendations.

Wilkin Chapman LLP Solicitors
17th June 2016.

Annexe 1 – South Ribble Borough Council Internal Audit Report implementation plan

NO.	FINDING / RISK	RECOMMENDATION	AGREED ACTION
1	<p>The Council does not currently have a Taxi Licensing Policy although it is understood that this is in the process of being developed and it is envisaged that this will be completed by January 2016.</p>	<p>A Taxi Licencing Policy should be introduced as soon as possible to ensure clear objectives and guidance is recorded and communicated to all users.</p>	<p>Since early 2015/16 the Council has been working with the Police and Crime Commissioners Office and other Lancashire authorities to improve the consistency of approach in dealing with licensing matters, with the Council chairing the Lancashire Licensing Officers Group (LOG). Amongst other things, this work included ensuring there was clarity surrounding adopted policies. A draft policy was accepted by the Council's the GLC on 24 November 2015 and has been the subject of consultation with the public and trade. In its development the policy has taken account of by-laws and previous policy decisions taken by the GLC. The updated policy document (post consultation) and is scheduled to be adopted by the Council on 20 July 2016.</p>
2	<p>However, the Taxi Licence application forms do not include the Fair Processing Notice nor the National Insurance Number as recommended by the Cabinet Office. The Personal Licence application form does not include the correct link to the SRBC website for further information on NFI although this was advised by us at the time of the last NFI exercise.</p>	<p>The Taxi Licence application form should be amended to include the Fair Processing Notice and the National Insurance Number. The Personal Licence application form should also include the correct link to the SRBC website</p>	<p>This has been addressed.</p>

3	To ensure responsibilities are clearly assigned and understood, and to maintain business continuity, detailed written procedures should be in place for Licensing Officers incorporating all aspects of the service.	Written procedures detailing roles and responsibilities should be in place for Licensing Officers.	Written procedures are in place
4	However, there are minor issues with the detail of information recorded when payments are transferred via ICON to the General Ledger.	Shared Financial Services should liaise with ICT to ensure the identification of Licensing payments is improved so that there is a clear audit trail of income received including a reference / name / date when payments are made by credit/debit card on Firmstep and then transferred to ICON / the General Ledger and VAT being recorded separately.	This has been addressed. It was a minor data entry issue and not in the direct control of the licensing team

5	There is a significant backlog of filing in the Licensing Service and some of the relevant documentation may have been received by the Council, however we are unable to provide assurance that the relevant documentation was received to support the applications / renewals in all cases.	Arrangements should be made to clear the backlog of filing and ensure that signed declaration and applications and supporting documentation has been received for all applications / renewals granted.	This has been addressed
6		The Public Health Manager should ensure that for all future applications / renewals, the files contain all relevant documentation at the time that the licence is granted / renewed.	This has been addressed with licence applications signed-off by a senior officer.
7		<p>The Public Health Manager should periodically carry out checks to ensure that that all relevant documentation has been received and that applications / renewals are being processed in accordance with the regulations.</p> <p>Evidence of checks should be retained</p>	Since December 2015 the application files have been thoroughly reviewed on a number occasions to provide assurance that all the necessary checks have been conducted and that the supporting evidence is in place.
8	However, written procedures in place for enforcement duties should include Licensing Officer roles and responsibilities.	Written enforcement procedures should include Licensing Officer roles and responsibilities for officer guidance.	Written procedures incorporating roles and responsibilities are in place

9	There is no formal schedule of pro-active enforcement in place and spot checks are only carried out when time permits. A monitoring record of pro-active enforcement activity carried out by officers is not maintained.	A formalised schedule of pro-active enforcement activity should be developed so that it is undertaken in a structured and organised manner covering all aspects of licensing enforcement.	An enforcement work plan has been developed covering the next three months and includes multi-agency operations
11		Formal recording of all proactive enforcement activity should be developed and maintained for monitoring and reporting purposes.	Evidence of enforcement activity is now being collated and recorded.
12	The number of licensing applications received is recorded and reported to the GLC on an annual basis. The Public Health Manager is already considering further performance measures including an update on the work of the team, the number of licenses issued and any enforcement action taken, possibly bi-annually.	An update on the work of the team, including number of Licenses issued and enforcement action taken should be reported to the GLC on a bi-annual basis.	A performance monitoring report was submitted to the GLC on 24 November 2015. Further reports are scheduled to be submitted on a bi-annual basis.

Annexe 2 – Wilkin Chapman Interim Report implementation plan

Additional comments provided by the MO are included in italics.

RECOMMENDATIONS	ACTIONS
<p>1. Ensure that all records relating to the licensing function are collated and properly filed as quickly as possible.</p>	<ul style="list-style-type: none"> • COMPLETED A <i>'tidying up exercise was undertaken to reconcile paper records that had not been filed</i> in November 2015 in advance of receiving the interim report from Wilkin Chapman. • Further detailed analysis / <i>reconciliation and review</i> was also COMPLETED in January 2016. • Since December 2015 the application files have been thoroughly reviewed on a number of occasions to provide assurance that all the necessary checks have been conducted and that the supporting evidence is in place. • LALPAC has also been enhanced to allow the immediate scanning of documents into the system. This enhancement took place in January 2016 to allow for all essential documents to be held in one place and linked to the driver's application. • <i>The process for transferring the application and associated scanned images of documents changed in January 2016, back to its original proposal. The application appears in Firmstep's 'dashboard' indicating its statutes "awaiting documents" etc. It only goes through for adjudication once ALL the necessary documents are received.</i> • <i>Transfer is electronic (so documents no longer go missing) and are scanned onto LALPAC so that everything is held in once place.</i>

<p>2. Identify any missing information and/or documentation and to take immediate steps to complete records.</p>	<ul style="list-style-type: none"> • COMPLETED <i>Started</i> in November 2015 in advance of receiving the interim report from Wilkin Chapman. • <i>That reconciliation exercise exposed additional cases where documents remained missing. A selection were identified fir HR disciplinary purposes (by way of examples) – these were the circa [xx] cases.</i> • Further detailed analysis was also COMPLETED in January 2016. • <i>The [xx] cases were re-examined in January 2016 following the suspension of staff and relocation of the service</i> • Since December 2015 the application files have been thoroughly reviewed on a number of occasions to provide assurance that all the necessary checks have been conducted and that the supporting evidence is in place.
<p>3. Identify any risks to the public arising from any information held (or received by the preceding bullet point) and to capture those risks on the Council's corporate risk register identifying further actions needed and tasking individuals with actions and strict urgent time limits for delivery.</p>	<ul style="list-style-type: none"> • Any potential/perceived risks associated with points 1 and 2 above have been addressed as they have arisen. • Improvements to the Licensing service are being treated corporately as a priority. • An Internal Audit review of the licensing function has been factored into the Internal Audit annual plan for 2016/17.
<p>4. Ensure that Licensing Unit and its three staff (and others with line management responsibility within the directorate) fully understand the primary purpose of the taxi licensing function.</p>	<ul style="list-style-type: none"> • COMPLETED – All staff working on Licensing duties have been briefed and are fully aware of the primary purpose of licensing, namely to protect the public. • Staff supporting the Council's Licensing function will be invited to the externally facilitated training being provided to the GLC (see 5 below). • <i>The 2 seconded staff (from gateway) have completed Level 1 Personal Licence Award and Level 1 BIIAB Alcohol Practitioner Award.</i> • <i>They have also completed a NALEO course regarding "hearings & Court proceedings"</i> • <i>Full LALPAC training</i>

<p>5. Ensure that all members of the General Licensing Committee (GLC) understand the primary purpose of the taxi licensing function and the quasi-judicial nature of the role of the GLC.</p>	<ul style="list-style-type: none"> • COMPLETED. • Following the Council AGM in May 2016 further training is to be provided as follows: <ul style="list-style-type: none"> ○ Refresher safeguarding training to be provided to the Licensing Committee on 14 June by an experienced external facilitator. ○ Training package covering licensing law, decision making case law and safeguarding being delivered by an experienced, external facilitator on 21 June 2016. ○ A programme of regular ongoing training on all aspects of training is to be delivered throughout the year.
<p>6. Require all members of the GLC (and relevant officers) to complete appropriate training as quickly as possible.</p>	<ul style="list-style-type: none"> • COMPLETED training was provided to the GLC including a session on Child Sexual Exploitation awareness on 21 July 2015 via an external facilitator. • Further training is being provided to the Licensing Committee during June 2016 (see 5 above). • A member learning hour, to which ALL councillors are to be invited, on the topic of safeguarding is scheduled for 25 July. • ALL council employees, not just those with licensing responsibilities, have recently undertaken mandatory safeguarding refresher training.
<p>7. Consider the commencement of disciplinary action against all three officers in the Licensing Unit in view of record keeping, investigation and application issues.</p>	<ul style="list-style-type: none"> • COMPLETED Action was taken in early January 2016 to progress disciplinary proceedings which are still ongoing.

<p>8. The size and place of the licensing function in the corporate structure be reviewed.</p>	<ul style="list-style-type: none"> • COMPLETED – Immediate interim steps were taken to provide additional experienced resources to ensure the licensing service continued to be managed and function effectively whilst disciplinary proceedings were undertaken. • <i>The newly recruited licensing team has relocated to the Audit room</i> • An experienced Licensing Manager has been recruited to oversee the Council's licensing function and lead on the Council's improvement plan. • The longer term structure etc will be considered once the disciplinary proceedings have been concluded.
<p>9. A process be put in place specifically designed to trigger safeguarding and golden hour actions in order to link or isolate cases for early positive interventions.</p>	<ul style="list-style-type: none"> • COMPLETED As an immediate response, an instruction was issued by the MO that any and all serious safeguarding allegations, which would by definition include allegations of CSE, be referred for urgent investigation by a qualified and experienced investigator, who is an ex-police officer. This instruction has been in place since September 2015. • The Council's established arrangements for reporting safeguarding concerns through our designated senior officer (Director) have been reaffirmed by communicating this throughout the Council. This ensures that the Lancashire County Council's Local Authority Designated Officer (LADO) is contacted along with other relevant agencies so that information can be exchanged and, as appropriate, safeguarding arrangements put in place.

<p>10. The provision of automatic linkages between Firmstep and Lalpac be explored to streamline processes and to minimise the risks of losing essential information.</p>	<ul style="list-style-type: none"> • COMPLETED • Applications are NOT passed to the Licensing Service until ALL documentation to support that application is received in Firmstep – this has been the case <i>since January 2016</i>. • LALPAC has also been enhanced to allow the immediate scanning of documents into the system. This enhancement took place in January 2016 to allow for all essential documents to be held in one place and linked to the drivers application.
<p>11. The role of the GLC be reviewed in terms of its function and delegations to named officer(s) to emphasise the quasi-judicial nature of the GLC's core purpose.</p>	<ul style="list-style-type: none"> • TARGET COMPLETION DATE 30 JUNE 2016 • This is under consideration by the Licensing Manager working with the Council's Legal Services Manager to assess whether any further clarification of formal decision making processes is required. Any proposals for improvement will, as appropriate, be reported to the GLC/Council and be fed into updated operational procedures, processes and training.
<p>12. A procedure be established for the manner in which reports to the GLC will be considered to provide for an order of business, rules on representation and time limits and clarity on irrelevant and/or inappropriate statements and comments.</p>	<ul style="list-style-type: none"> • TARGET COMPLETION DATE 30 JUNE 2016 • This is under consideration by the Licensing Manager and will be discussed with the Legal Services Manager before proposals are considered by the Licensing Chairman/Committee.
<p>13. A standard template for reports to the GLC be created to ensure consistency of approach. The template should provide for the inclusion of professional advice and specific recommendations to the GLC and for a section from Legal Services on the legality and general compliance of recommendations with corporate and legislative requirements and best practice guidance.</p>	<ul style="list-style-type: none"> • COMPLETED • The Council already has a template for preparing Committee reports which allows for contributions from various professional disciplines. The need to ensure that this is operating effectively has been reaffirmed. • In addition, we have already, and fundamentally changed the way allegations of serious matters are investigated and referred. A thorough and detailed investigation file is now prepared that contains all necessary information, legal advice and recommendations.

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