

The Rotherham Report: Implications for Licensing

Purpose

For discussion and direction.

Summary

Louise Casey's independent report into Rotherham Council's handling of child sexual exploitation cases was published on Wednesday 4 February 2015. Members are aware of the comprehensive action plan across the LGA on child sexual exploitation which seeks to address the key policy and practice issues.

However, the purpose of this report is to look specifically at two chapters on taxi licensing and the wider implications of those findings.

Recommendation

For discussion and direction

Action

Officers to progress as directed

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The Rotherham Report: Implications for licensing and community safety partnerships

Background

1. Professor Alexis Jay looked at how Rotherham Council's children's services department dealt with cases involving child exploitation between 1997 and 2013. Her investigation found evidence of "appalling" exploitation of at least 1,400 children in Rotherham over a period of 16 years and that there was a "collective failure" by both the police and the local council to stop the abuse. Her report was published on 26 August.
2. On 10 September 2014, the Secretary of State for Communities and Local Government used his powers under section 10 of the Local Government Act 1999 to appoint Louise Casey CB to carry out an inspection of the compliance of Rotherham metropolitan borough council in relation to the council's exercise of its functions on governance, children and young people, and taxi and private hire licensing.
3. Louise Casey's final report was presented to Parliament on 4 February 2015. The report stated that it found a council that was 'in denial' over the extent of the problem, had made limited progress under new leadership, and had not always put the needs of the most vulnerable at the centre of its work.
4. In addition to exploring the work of the Children's services team, which the inspectors found was failing, the Report also contains two dedicated chapters on Rotherham's licensing service, and two specific sections covering the role of the community safety partnership.
5. In response, the Secretary of State for Communities has announced the appointment of 5 Commissioners who will assume direction of the Council. They will replace the LGA's Improvement Board which had been established following the Jay report.
6. The Council has pledged to tackle all the issues in the report, and states that tackling this and other instances of corporate failure is a matter of the utmost urgency.

Findings

7. Rotherham were already working to review their policies and procedures on taxi licensing as they had already identified a number of issues ahead of publication of the report. Nevertheless, the report concluded that Rotherham had 'weak and ineffective arrangements for taxi licensing which leave the public at risk.'
8. Key issues are summarised below:

Oversight and leadership

- Elected members received inadequate training and some were also deemed to have an inappropriate level of intervention in day to day and operational licensing decisions.

- Some members pushed for licences to be granted in advance of receiving a CRB or Disclosure check, while licensing officers reported that some Councillors made representations on behalf of taxi drivers.
- The licensing service seemed more geared towards facilitating the trade than protecting the public.
- There was an excessive deference to police assurances and a failure to recognise the council's own role in pursuing perpetrators and exercising scrutiny.
- There was a failure to ensure only fit and proper persons could be permitted to hold a taxi licence.

Policies and procedures

- Policies and practices were out of date, with one byelaw dating back to 1976.
- The threshold for revoking a licence was set unreasonably high, and inspectors considered that officers had difficulty accepting evidence that had not already secured a conviction.
- Inspections were altered from a no-notice approach, as permitted by legislation, to 10 days advanced notice, following member intervention.
- Complaints were inconsistently recorded, and no analysis of trends in driver track records was / is undertaken.
- Rotherham's new Conviction policy was criticised for permitting the possibility of granting licences to those with more than one indecency offence or being on the sex offenders register.

Structural

- The separation of administrative licensing functions from enforcement licensing functions was ineffective, using different types of software that could not interface.
 - There was a lack of collaborative working, both within the council and with external stakeholders.
9. Louise Casey concluded that there was no real understanding and acceptance of the problem of CSE in licensed vehicles and premises, citing that a senior licensing officer was questioning, as recently as November 2014, whether an action plan on CSE should include actions against licensed vehicles and premises, including takeaways.
10. In addition the Report criticised the Safer Rotherham Partnership (CSP) saying:
- that the powers available to the council to tackle anti-social behaviour could have been used to disrupt the activities of perpetrators and protect victims
 - inspectors were critical of the partnership's reliance on police assurances they were undertaking investigations, and the fact Children's Services and the Youth Service were left to lead the council's response when they did not have the skills or experience to use the powers available to the council to disrupt perpetrators
 - an inability to make use of all the information available to the council which could have informed concerted action to tackle CSE.
11. The Report concluded that the partnership should have taken a more proactive role in prevention, disruption and enforcement; and it should have developed a strategy with the police to disrupt criminal activities associated with CSE.

Additional Points

12. This report has been shared with Rotherham MBC in advance of the Board meeting. The council has accepted the Casey report in full and does not contest any of those issues. They have provided the following commentary on specific issues to assist our support work with other councils.
13. Member training and oversight – Rotherham did provide bespoke training to elected members on taxi licensing, but some members chose not to attend. The example of a member intervening in a court case on behalf of a taxi driver was investigated by Rotherham under their members' code, and was deemed to be acceptable but 'inadvisable'.
14. Convictions policy - Rotherham endorses the need to have a robust policy and believe they are adopting one of the toughest policies in the country. However, they have commented that an offence of indecency could relate to such matters as urinating in public. They therefore have drawn a distinction between third party indecency and indecent assault. For the lesser, indirect indecency offences they felt that a five year ban was appropriate, with a lifetime ban for two offences. The more serious indecent assault offences, such as rape and indecent assault, will result in a lifetime ban.

Next steps

15. The LGA has a wider action plan on CSE (attached at **Annex A**) which is overseen by Cllrs Lucas, Simmonds and Fleming. Actions are progressing well.
16. With regards to these specific licensing issues, the separation of functions within licensing between policy and enforcement is not typically replicated in other councils and appears to be unique to Rotherham.
17. There also appears to have been a particular issue in this case around training staff and elected members. This does not appear to be a universal issue, although we will explore this in further depth with the LGA Licensing Forum.
18. **Nonetheless, this is an appropriate time for all licensing authorities to reflect on their policies and procedures and ensure that they are robust and we are keen to support our members in this.**
19. There are also two particular issues which we need to clarify with Government as there are wider, national implications. A DfT Circular (02/92) explicitly asked Councils to adopt an approach of granting licences after 3-5 years after an indecency offence had been committed. This has been widely adopted by councils across the country, although the most recent best practice guidance from DfT in 2010 omitted this reference. We therefore need to remind councils of this updated version and recommend that, while each case must be determined on its own merits, councils should consider taking a default approach that anyone convicted of an indecency offence will not normally be considered a fit and proper person to be a taxi / PHV driver.
20. The LGA will also continue to raise the recent difficulties around intelligence sharing by the police and the Disclosure and Barring Service, which the Casey Report identified as an issue in Rotherham, and is of major concern to councils across the country.

21. The LGA has a leadership and support role in supporting all councils to review their policies and procedures, and a number of councils are already establishing reviews in partnership with neighbouring authorities. The LGA Licensing Forum will act as a conduit for sharing progress, best practice, and raising any sector-wide issues.
22. We have already undertaken a number of actions as follows:
- updated the online councillor training module on regulatory services with CSE information
 - in the process of updating the LGA Councillor Handbook on Taxi and PHV Licensing (due 19 March);
 - organised two taxi licensing events on 19 and 31 March (which are already oversubscribed)
 - written to all Chairs of Licensing highlighting the potential role of licensed vehicles and premises in CSE
 - lobbied successfully to delete a damaging clause in the Deregulation Bill.
23. The LGA has also supported Rotherham to access peer-support from experts in taxi licensing. John Miley, Senior Licensing Manager for Broxtowe Council, will be providing advice on redesigning the structure of the service and maintaining competency of officers. James Button, Solicitor, has been engaged to review policies and procedures and ensure they are both compliant with the law and designed to engender rapid improvement.
24. The LGA will also be encouraging the professional bodies to develop comprehensive training programmes for both officers and elected Members. The LGA's workshop at the Institute of Licensing National Training Event in November will be used to this effect.
25. The LGA will also be reminding CSPs of the role they have to play in addressing CSE, and gathering and sharing examples of good practice.

Reform of taxi legislation

26. Over a longer period, the LGA will build on its lobbying work on the clauses in the Deregulation Bill and press the next Government to bring forward a Taxi and PHV Reform Bill at an early point in the next Parliamentary cycle. The LGA has already undertaken scoping work with members to identify which aspects of the Law Commission report should be adopted, and where additional powers for local government are needed.
27. Our proposals will, in particular, seek to strengthen councils' powers of vehicles operating in their area but not licensed by them. At the moment, councils may take only limited action against vehicles and drivers they have directly licensed.

Financial Implications

18. None.

ANNEX A

Update on tackling CSE

Background

1. Council efforts to tackle child sexual exploitation (CSE) have been thrown sharply into the spotlight in recent months, following the publication of Alexis Jay's inquiry into historic failings in Rotherham Borough Council.
2. Although the report was specifically concerned with events in Rotherham, previous inquiries have been clear that the sexual exploitation of children should be an issue of concern for communities across the country. In November 2013, the Office of the Children's Commissioner reported that at least 16,500 children across England were at risk of CSE between August 2010 and October 2011.

National response

3. This message has been reinforced in a number of subsequent reports, including a review of CSE in Greater Manchester led by Ann Coffey MP, a Communities and Local Government Select Committee Inquiry into issues arising from the Jay review, and Ofsted's thematic review of the local response to CSE in eight council areas.
4. The Ofsted review received particular criticism for failing to draw out examples of effective approaches to tackling CSE, focussing more strongly on local adherence to procedures and processes. The review was not generally regarded as a useful tool to support local practice improvement.
5. Separately, DCLG, Home Office and DfE have begun a more detailed study to assess the quality of local responses to CSE. Several councils have been contacted to contribute to this work, which will began with local data analysis towards the end of 2014 and continue through a series of tailored diagnostics in the new year. The work is scheduled to conclude in March 2015.
6. LGA, Solace and ADCS have been involved in discussions with officials to ensure that this work focusses on identifying good and emerging practice, rather than becoming another exercise in assessment and inspection. We are particularly keen that this project looks at effective approaches at the frontline, which was largely absent from the Ofsted review.
7. The Chief Social Worker is also working with local government and social work experts on the issue of frontline practice, considering whether the recent CSE inquiries have any implications for the Government's broader drive to improve front line social work practice.
8. This will link to ongoing work to introduce new assessment and accreditation at three levels of practice:
 - Approved Child and Family Practitioner for those who are lead professionals for named children and working with them under the local authority's statutory framework (commonly referred to as "case responsibility");

- Practice supervision for those with responsibility for educating, developing and supervising social workers;
 - Practice leadership for those with responsibility for social work services for children referred to in level one. This is envisaged as a senior leadership position focused entirely on the quality of front-line practice in a local area, complementing the corporate leadership role of the Director of Children's Services.
9. The wider government response to CSE sits within the cross-departmental National Group on Sexual Violence Against Children and Vulnerable Adults, led by the Home Office. The LGA is currently the only local government representative on this group, which is primarily made up of central government departments, law enforcement agencies and the third sector. We are lobbying strongly for increased representation from local government, supported by the Society of Local Authority Chief Executives (Solace), the Association of Directors of Children's Services (ADCS) and the Association of Directors of Adult Social Services (ADASS).

LGA action plan

10. In response to the issues highlighted in Rotherham and reinforced in subsequent reports, the LGA has developed a cross-Board action plan to support local activity in tackling CSE. This work has been underway since summer 2014, and includes:
11. Fully updated CSE resources for councillors. A revised CSE resource pack was published on 20 January 2015. The pack includes a brief overview of CSE, a summary of the issues to emerge from recent inquiries and reviews, and advice on key lines of enquiry for councillors to pursue when assessing the quality of local responses. The pack also includes several local case studies, which cover issues such as community engagement, regional work across local authority boundaries, building effective multi-agency partnerships and advice on independently auditing local practice.
12. An urgent high level CSE summit, held jointly with Solace and ADCS. This took place on 20 January 2015, and provided an opportunity for senior leaders within local government (Leaders, Lead Members, Chief Executives and DCSs) to take stock of the issues highlighted over the past few months, to review progress in tackling some of these historic weaknesses, and to determine what further action is required to ensure children are better protected in future.
13. Review of local safeguarding children boards. Tackling CSE effectively requires a strong multi-agency response, with LSCBs in a central role. Councils currently provide 55% of the average LSCB budget, with partners such as the police contributing less than 10%. These budgets are now coming under increasing pressure as expectations and workloads increase, and the LGA has commissioned Research in Practice to consider the effectiveness of current arrangements. The first stage of this work, a survey of LSCB Chairs, concluded in December 2014 with responses from 131 LSCBs (87% of the total). The second stage, multi-agency focus groups and deep dives in four LSCB areas, will begin in the new year. The project will conclude in March 2015.

23 February 2015

14. A peer diagnostic framework for LSCBs. This three day diagnostic has been piloted in five areas, and will be rolled out in full in the new year. This will be available to all councils, and includes a specific focus on efforts to tackle child sexual exploitation in the area. In response to demand from councils, the LGA will also continue to provide general safeguarding children peer reviews and diagnostics on a fully costed basis. This offer includes Safeguarding Children Peer Review, Safeguarding Practice Diagnostic and a Care Practice Diagnostic.
15. Raising awareness of CSE focus in regulation and licensing. We have successfully lobbied against a government clause that would have relaxed taxi regulation, using media releases to highlight the importance of proper checks on drivers. We are working to identify good practice in tackling this issue, and will hold a taxi licensing conference on 31 March 2015 to share learning. We will also review our training for licensing officers and councillors, and have written to all Chairs of Licensing to highlight the role of taxis in CSE.
16. Modelling the impact of funding reductions. New modelling from LGA has identified a £2.6bn shortfall in children's social care funding by 2020. Recent figures from DfE highlight a 22% rise in referrals since the Baby P case in 2008, and a 65% increase in children subject to child protection plans over the same period. These figures will be increasingly incorporated into media work over the coming months.
17. Resources to support councils with recruitment and retention of social workers. We have called for £65m of bursary grants to be devolved to councils, and are working with DfE to consider how councils can be more closely involved in local decisions through teaching partnerships. We launched a range of recruitment and retention resources in October 2014, including a toolkit, podcast and new case studies. We have also held an initial meeting with the Chief Social Worker to discuss her ongoing review of the effectiveness and use of practice tools.

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