

# **Report to Licensing Committee**

**Date of meeting: 13<sup>th</sup> October 2021**



**Epping Forest  
District Council**

**Subject:** Taxi and Private Hire Vehicle Standards &  
National Register of Taxi and Private Hire Licence  
Revocations and Refusals (NR3)

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**Recommendations:**

**For information & consideration**

**Background**

1. In July 2020 the Government published the Statutory Taxi and Private Hire Vehicle Standards to licensing authorities aimed at safeguarding children and vulnerable adults. The Statutory Standards set-out a range of measures to protect taxi and private hire vehicle passengers and are intended to promote a standardised and consistent approach to Taxi Licensing across Local Authorities by requiring Councils to publish a single cohesive policy, that includes:

- Requirement for a Register to be kept by Private Hire Operators of their booking / dispatch staff
- Mandatory subscription by driver licence holders to the Disclosure and Barring Service (DBS) Update service
- Basic DBS checks to be made of such staff by the operators and prescriptive records to be maintained by Operators
- Mandatory annual Basic DBS checks for Private Hire Operator licence holders who do not hold a Private Hire or Hackney Carriage Driver Licence
- Oral and written English Language proficiency tests for drivers
- Twice yearly Disclosure and Barring Service (DBS) checks for licensed drivers
- A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS for consideration to be added to the barred list
- A robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees
- Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate)
- Reduction of the time period for notification of the investigation into offences by licence-holders from 72 hours to 48 hours
- “whistleblowing” in place for staff to raise concerns and for any concerns to be dealt with openly and fairly
- Multi-agency working between the Licensing Authority, the Police and the MASH team
- Introduction of CCTV in licensed vehicles

2. Contrary to its title, the Statutory Taxi and Private Hire Vehicle Standards are not mandatory. Licensing Authorities must reach their own decisions, both on overall policies and

on individual licensing matters in light of relevant law. Therefore, the Council may determine that none or only part of the recommendations set out in the Standards should be adopted.

3. However, the Department for Transport expects the recommendations to be implemented unless there is a compelling local reason for the Council to depart from the standards. If the Council were not to adopt some or all the recommendations it may be open to legal challenge if the new statutory guidance is not followed without sufficient justification.

4. Whilst a significant number of the DfT's Standards are already included within the existing policy, the Licensing service will undertake a detailed review of the policy and report back to Licensing Committee with its recommendation on changes required.

### **National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3)**

5. There have been numerous high-profile cases where drivers who have been refused licences or had a licence revoked in one area have gone to another area and received a licence in that area by failing to disclose their previous history. This undermines public safety, if there are legitimate reasons why a licence was refused or revoked, and damages confidence in the hackney carriage/PHV licensing regime and trade.

6. As a result, the National Anti-Fraud Network (NAFN) was commissioned by the Local Government Association (LGA) to develop a national register as a practicable way for licensing authorities to check if an applicant has had a licence revoked or refused elsewhere. The initiative has been widely supported by reputable drivers and firms, as it will provide a mechanism for ensuring information about refusals and revocations can be shared between all licensing authorities in a safe and secure way, removing this potential loophole.

7. The register is voluntary however, where adopted, Licensing authorities will be responsible for adding basic details of drivers who have had applications for a licence either refused, revoked or suspended. The details will be limited to;

- Name
- Date of birth
- Address and contact details
- National insurance details
- Driving licence number
- Decision taken
- Date decision became effective

8. When a licensing authority receives an application for a licence, the applicant's details will be checked against the register to confirm that there is no record of them having been revoked or refused elsewhere. It will be up to individual authorities to follow up on any searches they make which come back with a match.

9. Licensing authorities are legally required to consider each licence application on its own merits. Therefore, if adopted, the Council will not refuse an application solely because an applicant may be recorded on the register. The purpose of the register is to ensure that licensing authorities have the full information necessary to help them reach a decision on whether an individual is fit and proper. If circumstances have materially changed since the decision that has been recorded, it may be appropriate for another licensing authority to award a licence.

10. Suspensions of licences are not be recorded on the national register. This is because suspension should be used as either a short-term punishment or to overcome a short-term situation (such as driving or medical issues). Where a driver is no longer considered to be a fit and proper person to hold a licence, the licence should be revoked, and the details recorded.

11. It is a legal requirement that individuals whose data is uploaded or entered onto the register are made aware of the collection, storage and use of their personal data via a privacy notice. In relation to register, the following details must be included in the privacy notice:

- The name and contact details of the licensing authority.
- The contact details of the authority's data protection officer.
- The purpose of the processing.
- The lawful basis for the processing.
- The recipients or categories of recipients of the personal data.
- The retention periods for the personal data.
- The rights available to individuals in respect of the processing.
- The right to lodge a complaint with a supervisory authority.

For current licensees or applicants, authorities should ensure that information about the register is included in:

- licensing policies
- application forms
- correspondence to named individuals that confirms that a licence has been revoked, or that an application for a licence has been refused.

12. Individuals whose details are added to the register will be notified of this when they are advised of the decision to refuse or revoke a licence. An individual can also submit a Subject Access Request (SAR) to the Council to ascertain if their details are recorded on the register. The National Anti-Fraud Network as the data processor (the organisation storing the data), will fulfil this request.

13. To comply with this requirement the Council must update its current policy to reflect the use of the register and the new processes arising from it, including that relevant information on the register will in future be part of the process for assessing licence applications and whether an individual is a fit and proper person.

14. It will also need to update application forms and related paperwork (such as guidance notes etc.) to make it clear that:

- all applicants will have their details checked against the register, and any relevant information taken into account in assessing the application
- where an application is refused, or where a licence is granted but subsequently revoked, this information will be entered into the register.

15. In addition, existing licensees will be notified that the authority has signed up to the register, and that if their licence is subsequently revoked or not renewed, this will be recorded.

16. The statements included in the privacy notice, licensing policy, forms and guidance etc. should provide assurance that this information will be processed in accordance with the DPA and GDPR. Critically, it should also make clear that there is a lawful basis for processing the data, which is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

17. Wording to be included in the privacy notice and policy etc. has been provided by the Local Government Association in the Guidance on adopting the National Register of Taxi Licence Revocations & Refusals (NR3)

18. To access the register, Local Authorities are required to be members and subscribe to The National Anti-Fraud Network (NAFN). This Council is already a subscribing member to the NAFN which is administered by our Corporate Fraud Team Manager. The register is voluntary, and guidance has been developed that sets out the steps authorities will need to take to use the register in a way that complies with the data protection requirements, as well as with human rights law.

19. Data is retained on the register solely to assist licensing authorities fulfil their statutory duty to ensure that an applicant is a fit and proper person to hold a taxi or private-hire vehicle licence. These duties are set out under sections 51, 59 and 61 of the Local Government (Miscellaneous Provisions) Act 1976, and section 46 of the Town Police Clauses Act 1847. Data will be held on the register for 25 years, in line with the National Anti-Fraud Network NAFN retention policy.

20. Adoption of both the National Register of Taxi and Private Hire Licence Revocations and Refusals register and the Taxi and Private Hire Vehicle Standards will be considered as part of the detailed review of the existing taxi licensing policy, and the Licensing Service will report back to Licensing Committee with its recommendation on changes required.

21. This review will also include further consideration of in-vehicle CCTV in Taxi and Private Hire Vehicles which is included in the Statutory Standards and was introduced in a report at the last Licensing Committee meeting on 30 November 2020, about which members requested further information in due course.