

Licensing committee

Date: **Thursday, 05 September 2019**
Time: **16:30**
Venue: **Mancroft room, City Hall, St Peters Street, Norwich, NR2 1NH**

Committee members:

Councillors:

Stutely (chair)
Fulton-McAlister (E) (vice chair)
Ackroyd
Brociek-Coulton
Giles
Grahame
Huntley
Maxwell
McCartney-Gray
Oliver
Price
Ryan
Schmierer

For further information please contact:

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Information for members of the public

Members of the public and the media have the right to attend meetings of full council, the cabinet and committees except where confidential information or exempt information is likely to be disclosed, and the meeting is therefore held in private.

For information about attending or speaking at meetings, please contact the committee officer above or refer to the council's website

Agenda

1 Apologies

To receive apologies for absence.

2 Declarations of interest

(Please note that it is the responsibility of individual members to declare an interest prior to the item if they arrive late for the meeting)

3 Public questions/petitions

To receive questions / petitions from the public.

Please note that all questions must be received by the committee officer detailed on the front of the agenda by **10am on Monday 2 September 2019.**

Petitions must be received by the committee officer detailed on the front of the agenda by **10am on Wednesday 4 September 2019.**

For guidance on submitting public questions or petitions please see appendix 1 of the council's constitution.

4 Minutes

5 - 10

To agree the accuracy of the minutes of the meeting held on 6 June 2019.

5 Animal Activity Licensing

11 - 24

Purpose: To update and inform members on the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and the changes in the way in which animal boarding, dog breeding, pet shops, and riding establishments are licensed and the commencement of the licensing of the keeping of animals for exhibition.

6 Adoption of the National Register of Refusals and Revocations

25 - 62

Purpose: To consider adopting the National Register of Refusals and Revocations (NR3), hosted by the National Anti-Fraud Network (NAFN).

Exempt items:

(During consideration of these items the meeting is not likely to be open to the press and the public.)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part 1 of Schedule 12 A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, members are asked to decide whether, in all circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

Date of publication: **Wednesday, 28 August 2019**

Licensing committee**16:35 – 19:45****6 June 2019**

Present: Councillors Stutely (chair), Fulton-McAlister (E) (vice chair following election), Ackroyd, Brociek-Coulton, Giles, Grahame, Huntley, Maxwell, McCartney-Gray, Oliver, Price, and Schmierer

Apologies: Councillor Ryan

1. Appointment of vice chair

RESOLVED to appoint Councillor Erin Fulton-McAlister as vice chair for the ensuing civic year.

2. Public questions/ petitions

There were no public questions or petitions received for this meeting. The environmental protection, licensing and markets manager explained that a petition had been received by the council which related to a live licence application and therefore could not be brought to the licensing committee

3. Declarations of interest

Councillor Erin Fulton-McAlister declared an other interest in item 6 below as she had an involvement in acquiring members for the Labour 100 club.

Councillor Oliver declared an other interest in item 6 below as she was involved in fundraising for the Labour party and may apply for Temporary Event Notices in the future.

Councillor Price declared an other interest in item 7 below as his son attended a school within the vicinity of some of the venues.

4. Minutes

RESOLVED to approve the accuracy of the minutes of the meeting held on 7 March 2019

5. Appointments to regulatory sub committee

The environmental protection, licensing and markets manager presented the report. Councillor Grahame would take the vacant place on the licensing committee and would be scheduled to attend regulatory sub committees as appropriate.

RESOLVED to agree the appointments to regulatory sub committees for the 2019-20 civic year.

6. Gambling Statement of Principles and Local Area Profile

The environmental protection, licensing and markets manager presented the report.

The chair thanked the officers for the report but was concerned that the report contained outdated information as some of the data had been collected in 2010. There were annual gambling survey reports available so he would like to see the context based on these figures rather than data from 2010.

Members welcomed the suggestion of a more up to date LAP as this would ensure that the principles were appropriate for Norwich.

The environmental protection, licensing and markets manager said that the committee was considering the gambling statement of principle which included a Local Area Profile (LAP). The LAP was for reference only but he accepted that the data was out of date.

Discussion ensued on the draft Gambling Statement of Principles and Local Area Profile document.

A member commented that the reference to the Norwich Primary Care Trust should be changed to the Norwich Clinical Commissioning Group.

A member referred to paragraph 2.4, the requirement to carry out a risk assessment and suggested that the council should obligate an operator to keep a copy of this on the premises. National chains may do risk assessments at a corporate level but having a local copy would encourage venues to reflect local issues.

A member suggested that the council should consider premises holding a refusals book detailing those who had self-excluded or customers who had failed an ID check. This should include the time, date and a description of the underage person, the name of the salesperson who had verified the information and the book should be kept on the premises to allow the licensing authority and the police to inspect it. Members referred to the London Borough of Newham which already had a similar policy in place. The environmental protection, licensing and markets manager said that this condition could only be imposed on new licences but there would be an expectation that existing licence holders followed the same principle on a voluntary basis.

A member commented that clarification of some of the terminology used in the report would be helpful, including the definition of high time and high spend gamblers and the definition of child poverty within the context of the LAP.

A member referred to age 61 of the report and said that although there could be a link between the gambling industry and high level organised crime, there was also a link with low level antisocial behavior which should be reflected in the policy.

Members discussed whether it could be a requirement of a new licence to display signage showing helpline numbers of various organisations that customers could contact, including Gamcare and the Samaritans. The environmental protection, licensing and markets manager said that paragraphs 9.11 and 9.12 of the policy stated that conditions could be made on a case by case basis so appropriate signage could be relevant to each venue.

A member suggested that there should be more detail around the CCTV requirements. He referred to the requirements of the London Borough of Newham which specified that the CCTV should be in good working order, images should be stored securely and kept for 30 days.

Discussion ensued around the introduction of a 'no casino' resolution. A member said that they did not feel that the committee had enough information to be able to make that decision and suggested that a report could be brought to a future licensing committee meeting to give more information such as the effects on anti-social behavior, gambling problems and information on other cities with casinos for context.

RESOLVED to:

- (1) Defer consideration of the Gambling statement of principles and local area plan to the September 2019 meeting of the licensing committee
- (2) Ask the environmental protection, licensing and markets manager to include the following in the revised draft:
 - a) To amend the reference to 'Norwich Primary Care Trust' at paragraph 2.12 to read 'Norwich Clinical Commissioning Group'
 - b) At paragraph 2.4, include a condition to obligate operators to keep a copy of their risk assessment on the premises
 - c) Add a condition to new gambling licenses to state that the licensee must keep a register (known as a refusals book) to include details of self excluded customers, the time, date and description of underage persons entering the premises and the name of the salesperson who verified this, with the book being kept on the premises for inspection by the licensing authority and the police.
 - d) Add a condition that within betting premises, adult gaming centres and bingo venues, signage should be displayed with contact details of support organisations such as Gamcare, the Samaritans and Citizens Advice.
 - e) Include within the Local Area Profile definitions of the thresholds for identifying high spend and high time gamblers as well as the definition of children in poverty within the context of the profile.
 - f) Within section A, add an acknowledgment that the suitability of locations for gambling premises should also take into account low level crime and anti-social behaviour and not just organised crime.
 - g) Within section A, expand the mention of CCTV to include 'this may include defining the type and quality of the CCTV, the duration of retention of

images and ensuring that these are made available to the police and the licensing authority for inspection.'

- (3) Ask the licensing and markets manager to bring a report to a future licensing committee on a 'no casino' resolution.

6. Sex Establishment Policy

The environmental protection, licensing and markets manager presented the report.

The committee was asked to consider whether to split the numbers of specific types of sex entertainment venues in each area, whether to continue with the limit of two licensed premises or increase this to three premises and whether to remove the Riverside area from the late night entertainment zone due to the premises in this area changing.

A member commented that the late night entertainment zone was based on planning criteria and asked whether the decision on the removal of the Riverside area from this zone should be considered by the planning applications committee. The environmental protection, licensing and markets manager said that planning policy did not have a bearing on the Sex Establishment Policy but was a useful pre-defined area. If the committee decided that it was not appropriate to include the Riverside area in the late night entertainment zone, it would instead be classified as part of the city centre leisure area which still identified it as an area in which an application for a sex establishment licence could be made. A member questioned whether removing Riverside from the late night entertainment zone would undermine processes around the cumulative impact policy. The environmental protection, licensing and markets manager confirmed that these were two separate pieces of legislation and any decisions would be made under the relative legislation.

Discussion ensued on setting a cap on the number of sexual entertainment licences. The environmental protection, licensing and markets manager said that in December 2018, the licensing committee had agreed to consult on a capped policy of two licensed venues. At this time there were two licensed premises on Prince of Wales Road. During the consultation, a third application was received and granted as the proposed policy with a cap of two premises was not in place.

A member said that he was concerned that a number of industry workers when responding to the consultation had said that two establishments were sufficient due to supply and demand. A member added that she was concerned that a respondent had said that there would be pressure to provide 'extra services' if more establishments were opened and therefore thought that a cap of two was suitable.

The legal advisor reminded members that the government had provided for a cap on numbers to be introduced but each application would have to be decided on its own merits. If three establishments continued to run with no objections, there may not be grounds to revoke a licence to meet the level of the cap. Any change to the cap, once agreed, would need to be a committee decision. Discussion ensues on the cap of numbers of SEV licenses. Members noted that whilst three SEV licenses were in existence at the date of committee, generally only two had been operating at the same time in the Prince of Wales Road area. The committee had considered the results of the consultation regarding supply and demand and believed that the demand was only

sufficient for two SEVs. More than two would increase the risks to operatives and encourage crime and unacceptable behaviour. Members also noted that the locality was mixed use with residential accommodation (including sheltered accommodation), religious buildings and a school as well as late night businesses committee and felt that a limit of two SEV's operating in this area was a fair and reasonable balance in uses.

A member questioned the circumstances in which an SEV licence could be applied for, with particular reference to a licensee who had lost a licence in another area but applied for one within the Norwich City boundary. A member suggested that a question be added to the SEV licence application asking whether the applicant had held a licence elsewhere which had been revoked or if they had been refused a licence.

It was therefore **RESOLVED**:

- (1) To recommend council to adopt the Sex Establishment Policy subject to the following amendments:
 - a) Add a question to the Sexual Entertainment Venue (SEV) application form asking whether the applicant has previously held an SEV licence or related licence and whether they have had a licence revoked or refused.
 - b) Add a condition to every SEV licence that welfare support and training must be given to a designated person at the establishment.
 - c) To remove the Riverside area from the Late Night Activity Zone and move it into the City Centre Leisure area
- (2) To not classify the Sex Establishments into different categories for the purpose of the policy
- (3) To cap the numbers of Sex Establishments at two in the Late Night Activity Zone, two in the City Centre Leisure Area and zero in the City Council Area outside of these areas; and
- (4) To bring the annual renewal of each SEV licence to the committee for consideration.

7. Standing item – Regulatory subcommittee minutes

RESOLVED to receive the minutes of the regulatory subcommittee meetings held on 11 March 2019 and 13 May 2019.

CHAIR

Report to Licensing committee
05 September 2019
Report of Head of citywide services
Subject Animal Activity Licensing

Item

5

Purpose

To update and inform members on the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and the changes in the way in which animal boarding, dog breeding, pet shops, and riding establishments are licensed and the commencement of the licensing of the keeping of animals for exhibition.

Recommendation

To approve the proposed 2019-2020 fees for animal activity licensing as detailed in Appendix 3 of the report to come into force on 01 January 2020.

Corporate and service priorities

The report helps to meet the corporate priorities of an inclusive economy and people living well.

Financial implications

Mail shot to pending licence holders to be met from existing budget.

Ward/s: All Wards

Cabinet member: Councillor Maguire - Safe and sustainable city environment

Contact officers

Michael Stephenson, Environmental health and public protection manager 01603 212283

Tony Shearman, Public protection manager 01603 212278

Background documents

None

Report

Introduction

1. The new [The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018](#) provides for the licensing of persons involved in England in selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition. This replaces the requirement in England, to be registered under the Performing Animals (Regulation) act 1925 or to obtain a licence under the Pet Animals Act 1951; the Animal Boarding Establishments Act 1963; the Riding Establishments Act 1964 or the Breeding of Dogs Act 1973.
2. The regulations provide for local authorities to be the licensing authorities. Any person wishing to carry on any of these activities in England must obtain a licence from their local authority. Carrying on any of these activities without a licence would commit an offence and that person would be liable to imprisonment for up to six months, a fine or both.
3. [Department for Environment Food & Rural Affairs \(DEFRA\) has issued Procedural guidance notes for local authorities October 2018](#). The guidance for local authority inspectors on licensing activities involving animals, explains the conditions that businesses need to meet in order to receive an animal activities licence. This guidance covers
 - a) dog breeding
 - b) pet selling
 - c) hiring out horses
 - d) boarding for dogs and cats
 - e) home boarding for dogs
 - f) dog day care
 - g) keeping or training animals for exhibition
4. The Regulations came into effect on 1 October 2018.

Changes

5. [The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018](#) define the animal based activities that require licences as follows:
 - a) Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.
 - b) Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business.
 - c) Hiring out horses in the course of a business for either riding, instruction in riding, or both.

- d) Breeding three or more litters of puppies in any 12-month period; or breeding dogs and advertising a business of selling dogs.
- e) Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by the recording of visual images of them by any form of technology, or both.

Fee setting

- 6. There are overarching general conditions and specific conditions relating to each animal activity laid out in the Regulations. All new licences issued from 1 October 2018, under these Regulations will contain these nationally set conditions.
- 7. The new regime requires a 'qualified inspector' to carry out the inspections, and in the case of the grant of a dog breeding establishment and at grant and renewal of horse riding establishments they must be accompanied by a veterinary surgeon who must be listed with the Royal College of Veterinary Surgeons.
- 8. Under the new arrangements, the inspection process will be much more comprehensive, and will provide the premises with a 'risk rating'. This process will establish whether the business is 'low risk' or 'higher risk' based on the level to which it meets the standards set out in regulations and guidance. It will be awarded a rating of between one and five, which will determine the length of the licence (with the exception of 'Keeping and Training Animals for Exhibition' for which all licences will be issued for 3 years as default). Operators of businesses will be able to appeal their risk rating, or request a reassessment of their rating if they have made improvements. The rating will be displayed on the licence and included in the Council's public register, published on the Norwich City Council website.

Licence Fees

- 9. The guidance details that animal licence activity fee can include charges for the consideration of the **application**, the reasonable anticipated costs of consideration of a licence holder's **compliance** with these Regulations, the reasonable anticipated costs of **enforcement** in relation to any licensable activity of an unlicensed operator and any fees in relation to the provision of information to the secretary of state.
- 10. The table in Appendix 1 detail how the current advertised fee of £409 was calculated.
- 11. The table in Appendix 2 details how the proposed fee structure for 01 January 2020 to 31 March 2020 was calculated.
- 12. The table in Appendix 3 is the proposed fees for Animal Activities for the period 01 January 2020 - 31 March 2020 derived from the calculations in Appendix 2
- 13. Norwich City Council will keep a register of local RCVS registered vets willing to undertake inspections. The veterinary inspector must be appointed by the local

authority not the operator. The vet will be RCVS registered or in the case of horses RCVS listed. On inspections they will be accompanied by a suitably qualified local authority inspector. When an inspection is required vets on the register will be approached and asked for their availability, any conflict of interest and the cost of the inspection. This cost will be borne by the operator who will be invoiced, unless the inspection is the result of a complaint in which case the cost is factored into the enforcement fee.

Publicising the Changes

14. Information has been updated on the Norwich city council's website, detailing the changes and the new conditions. A fee of £409 was set for 2018-19, whilst the fees were calculated and the necessary software updates were made to receive applications and fees online. The new fee structure will come into force on 01 January 2020 and fees updated on 1 April 2020 when the 2020-2021 on-costs and overheads uplift is known.
15. Where renewals/enquiries have been received, Environmental Health Officers have been conducting inspections and advising applicants of their rating as required using the LA guidance, see Appendix 4 for current licence holders. There are some licence fees pending, once the software has been upgraded to record necessary detail and produce a licence these operators will be invoiced for £409 as currently advertised on our website.
16. [The Licensing - Animal welfare](#) webpage was updated in October 2018, this will be updated again to
 - a. Link to the table of Animal activity licensing fees, Appendix 3
 - b. Link to an Animal activities licensing – Privacy notice, Appendix 5
 - c. Link to the Public Register, Appendix 4
 - d. Link to a Frequently asked questions page, Appendix 6

Calculation of current animal activity licence fees

Pet Shop/Animal Boarding/Dog Breeding/Dangerous Wild Animals: grant / renewal

Task	Officer	Time	Hourly rate (Cost	
<u>Application costs</u>				
Initial Enquiry Customer Contact	CCT operator - Grade 3 - SCP 22	20	25.95	8.65
Post Application Forms	Licensing Assistant - Grade 4 - SCP 26	15	27.78	6.95
Application received - check correct forms, fee etc received	Licensing Assistant - Grade 4 - SCP 26	15	27.78	6.95
Application received - details entered on to Uniform	Licensing Assistant - Grade 4 - SCP 26	20	27.78	9.26
Process Licence Fee	Admin Officer - Grade 2 - SCP 18	10	24.21	4.04
Check application details	Licensing Assistant - Grade 4 - SCP 26	10	27.78	4.63
Arrange site inspection	Environmental Officer (Food and Safety) - Grade 7 - SCP 38	15	34.51	8.63
Site inspection preparation	Environmental Officer (Food and Safety) - Grade 7 - SCP 38	30	34.51	17.26
Site visit including travel to and from site	Environmental Officer (Food and Safety) - Grade 7 - SCP 38	120	34.51	69.02
Post site inspection decision work	Environmental Officer (Food and Safety) - Grade 7 - SCP 38	30	34.51	17.26
Decision on whether to issue licence	EP, Licensing and Markets Manager - Grade 10 - SCP 50	20	42.55	14.18
Licensing advice*	Environmental Officer (Food and Safety) - Grade 7 - SCP 38	60	34.51	34.51
			Subtotal	201
<u>Enforcement / maintenance costs</u>				
Initial complaint received by customer contact	CCT operator - Grade 3 - SCP 22	10	25.95	4.33
Complaint investigation & resolution**	Environmental Officer (Food and Safety) - Grade 7 - SCP 38	120	34.51	69.02
Regulatory and compliance enquiries***	Environmental Officer (Food and Safety) - Grade 7 - SCP 38	60	34.51	34.51
Site visit and report preparation by vet****				100.00
			Subtotal	208
Total				409

Figures include increases for 2018-2019

Hourly rate is calculated by adding basic salary + pension + employer NI + organisational costs (CDS recharges)

* Environmental Health Officer yearly advice 4 hours (240 minutes) divided by 4 applications received in the preceeding financial year.

** Based on one complaint a year

*** 6 calls a year @ 10 mins per call

****Based on vet charges of £500 for visit/report to one premise; divided by 5 premises licensed in preceeding financial year

Calculation of animal activity licences fees 01 January 2020 – 31 March 2020

ANIMAL ACTIVITIES LICENSING FEES

Task	Officer	Grade	Boarding for cats or dogs	Selling animals as pets	Hiring out horses	Breeding Dogs	Keeping or training animals for exhibition (3 years)	Minutes	Hourly rate (including indirect & on-costs)	Cost
APPLICATION COSTS										
<u>Reviewing and granting/refusing licence including renewals</u>										
Open and examine application documentation sense check	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Enter application details on to the system (Uniform - licensing)	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Check and enter Licence Application Fee receipt on to Uniform	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Review application and arrange site inspection	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£13.17	£13.17	£13.17	£13.17	£13.17	20	£39.52	£13.17
Enter application details on to the system (Uniform - commercial)	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£6.59	£6.59	£6.59	£6.59	£6.59	10	£39.52	£6.59
Site inspection including travel to and from site	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£158.08	£158.08	£158.08	£158.08	£158.08	240	£39.52	£158.08
Raise NCC Purchase Order for vet (if required)	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7			£19.76	£19.76		30	£39.52	£19.76
Env. Health to notify applicant of online payment and check payment received	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£9.88	£9.88	£9.88	£9.88	£9.88	15	£39.52	£9.88
Vet inspection (if required) applicant will be invoiced	Vet Fee full cost paid by operator	Vet								
Cost of finance officer processing the Purchase Order and Invoice	Grade 5 Finance officer	5	£5.69	£5.69	£5.69	£5.69	£5.69	10	£34.15	£5.69
Preparation of inspection report and decision on rating/licence period	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£79.04	£79.04	£79.04	£79.04	£79.04	120	£39.52	£79.04
Notify licensing of decision using Uniform (licensing)	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£6.59	£6.59	£6.59	£6.59	£6.59	10	£39.52	£6.59
Enter decision of licence and reason for ratings on to the system (Uniform - licensing)	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£6.59	£6.59	£6.59	£6.59	£6.59	10	£39.52	£6.59
Write to applicant to inform of decision and ask for grant fee if applicable	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£13.17	£13.17	£13.17	£13.17	£13.17	20	£39.52	£13.17
			£317.30	£317.30	£337.06	£337.06	£317.30			
COMPLIANCE AND ENFORCEMENT COSTS (GRANT)										
<u>Grant costs - administering and monitoring compliance of all licences</u>										
Check and enter Licence Grant Fee receipt on to Uniform	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Print, sign and send licence with details of appeals process	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Update details on NCC Register, maintaining database of star ratings and cost of licences	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Cost of reviewing a rating for an appeal (not including an inspection)	Env. Officer (Food and Safety) - Grade 10	10	£98.26	£98.26	£98.26	£98.26	£98.26	120	£49.13	£98.26
One unannounced visit during period of licence including travel to and from site	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£79.04	£79.04	£79.04	£79.04	£79.04	120	£39.52	£79.04
Raise Purchase Order for statutory vet inspections (invoiced in addition if required)	Env. Officer (Food and Safety) - Grade 7 - SCP 39	7			£19.76	£19.76		30	£39.52	£19.76
Cost of finance officer processing the Purchase Order and Invoice	Grade 5 Finance officer	5	£5.69	£5.69	£5.69	£5.69	£5.69	10	£34.15	£5.69
Statutory vet inspection (one unannounced visit for duration of the licence)	Vet Fee full cost paid by operator	Vet				Vet Fee invoiced				
Statutory annual vet inspection (if required) applicant will be invoiced	Vet Fee full cost paid by operator	Vet			Vet Fee invoiced					
Administration of renewal reminder	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Provision of information to secretary of state annually	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
			£214.71	£214.71	£234.47	£234.47	£214.71			
Enforcement										
Cost of reviewing complaint, gathering information	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£19.76	£19.76	£19.76	£19.76	£19.76	30	£39.52	£19.76
Cost of unannounced visit following complaint including travel time	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£79.04	£79.04	£79.04	£79.04	£79.04	120	£39.52	£79.04
Cost of raising purchase order for vet inspection	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£19.76	£19.76	£19.76	£19.76	£19.76	30	£39.52	£19.76
Cost of finance officer processing the Purchase Order and Invoice	Grade 5 Finance officer	5	£5.69	£5.69	£5.69	£5.69	£5.69	10	£34.15	£5.69
Cost of site inspection by vet in respect of complaint	Vet Fee full cost paid by operator	Vet								
Cost of time to discuss whether to suspend, vary or revoke licence following complaint	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£19.76	£19.76	£19.76	£19.76	£19.76	30	£39.52	£19.76
Cost of time to decide whether to suspend, vary or revoke licence following complaint	EP, Licensing and Markets Manager - Grade 10 - SCP 50	10	£24.57	£24.57	£24.57	£24.57	£24.57	30	£49.13	£24.57
Cost of enforcing 1 complaint			£168.58	£168.58	£168.58	£168.58	£168.58			
Number of complaints investigated in previous year										
minimum of one			1	1	1	1	1			
Total number of all animal activity licences issued in last calenc			7	7	7	7	7			
Proportional cost of enforcement per year			£24.08	£24.08	£24.08	£24.08	£24.08			

Task	Officer	Grade	Boarding for cats or dogs	Selling animals as pets	Hiring out horses	Breeding Dogs	Keeping or training animals for exhibition (3 years)	Minutes	Hourly rate (including indirect & on-costs)	Cost
OTHER COSTS (to be charged separately - they do not form part of the licence fee)										
Request for Re-inspection after the granting of a licence, a new rating must not be given on the basis of documentary evidence only.										
Review written request for reinspection, decide if accepted	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£13.17	£13.17	£13.17	£13.17	£13.17	20	£39.52	£13.17
Review original inspection report and prepare for revisit	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£19.76	£19.76	£19.76	£19.76	£19.76	30	£39.52	£19.76
Arrange site inspection	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£9.88	£9.88	£9.88	£9.88	£9.88	15	£39.52	£9.88
Site inspection including travel to and from site	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£79.04	£79.04	£79.04	£79.04	£79.04	120	£39.52	£79.04
Raise Purchase Order for vet (if required)	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7			£19.76	£19.76		30	£39.52	£19.76
Cost of finance officer processing the Purchase Order and Invoice	Grade 5 Finance officer	5	£5.69	£5.69	£5.69	£5.69	£5.69	10	£34.15	£5.69
Vet inspection (if required)	Vet Fee full cost paid by operator	Vet								
Prepare report on reinspection and decide rating/licence period	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£19.76	£19.76	£19.76	£19.76	£19.76	30	£39.52	£19.76
Notify licensing of decision	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£6.59	£6.59	£6.59	£6.59	£6.59	10	£39.52	£6.59
Write to applicant to inform of decision	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£13.17	£13.17	£13.17	£13.17	£13.17	20	£39.52	£13.17
Enter licence details on to the system (Uniform - licensing)	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Print, sign and send licence with details of appeals/rerating process	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Update details on NCC Register, maintaining database of star ratings and cost of licences	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
			£188.21	£188.21	£207.97	£207.97	£188.21			
Request for variation that does not require re-inspection										
Open and examine application documentation to vary sense check	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Process variation Fee	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Review request, decide on variation and record decision	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£39.52	£39.52	£39.52	£39.52	£39.52	60	£39.52	£39.52
Notify licensing of decision	Env. Officer (Food and Safety) - Grade 7 - SCP 38	7	£6.59	£6.59	£6.59	£6.59	£6.59	10	£39.52	£6.59
Print, sign and send amended licence	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Update details on database and NCC Register, maintaining database of star ratings and cost	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
			£75.18	£75.18	£75.18	£75.18	£75.18			
Licence transfer fee (on death of licence holder)										
Open and examine application documentation sense check.	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Check and enter Licence Transfer Fee receipt on to Uniform	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Make decision on application	Licensing Assistant - Grade 4 - SCP 26	4	£15.86	£15.86	£15.86	£15.86	£15.86	30	£31.72	£15.86
Enter application details on to the system (Uniform - licensing)	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Check, sign and post new licence documents	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Update details on database and NCC Register, maintaining database of star ratings and cost	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
			£50.22	£50.22	£50.22	£50.22	£50.22			
Copy of Licence										
Open and examine application documentation sense check	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
Check and enter fee receipt on to Uniform	Licensing Assistant - Grade 4 - SCP 26	4	£5.29	£5.29	£5.29	£5.29	£5.29	10	£31.72	£5.29
Check, sign and post new licence documents	Licensing Assistant - Grade 4 - SCP 26	4	£7.93	£7.93	£7.93	£7.93	£7.93	15	£31.72	£7.93
			£21.15	£21.15	£21.15	£21.15	£21.15			

Table of Animal activity licensing fees

Table of proposed fees for Animal Activities for the period 01 January 2020 - 31 March 2020

Licensable Activity	Total Application or Renewal fee	Compliance fee			Enforcement fee			Total of Grant fees Compliance + Enforcement			Total of Application and Grant fees		
Animal Boarding to include:		1 year	2 year	3 year	1 year	2 year	3 year	1 year	2 year	3 year	1 year	2 year	3 year
Dog boarding	£317	£215	£215	£215	£24	£48	£72	£239	£263	£287	£556	£580	£604
Home boarding for dogs	£317	£215	£215	£215	£24	£48	£72	£239	£263	£287	£556	£580	£604
Dog day care	£317	£215	£215	£215	£24	£48	£72	£239	£263	£287	£556	£580	£604
Cat boarding	£317	£215	£215	£215	£24	£48	£72	£239	£263	£287	£556	£580	£604
Dog breeding	£337	£234	£234	£234	£24	£48	£72	£259	£283	£307	£596	£620	£644
	In addition the operator will be invoiced for the full cost of the application Vet inspection and the subsequent compliance Vet inspection (one for the duration of the licence)												
Hiring out horses	£337	£234	£333	£432	£24	£48	£72	£259	£381	£504	£596	£718	£841
	In addition the operator will be invoiced for the full cost of the application Vet inspection and the subsequent annual compliance Vet inspections												
Selling animals as pets	£317	£215	£215	£215	£24	£48	£72	£239	£263	£287	£556	£580	£604
Keeping or training animals for exhibition	£317	£215 3 year licence			£72 3 year licence			£287 3 year licence			£604 3 year licence		
Appeal the star rating within 21 days of licence issue	Businesses have 21 calendar days following the issue of their licence in which to appeal the star rating given as not reflecting the animal welfare standards and risk level of their business at the time of the inspection. This should not be used if the business has made improvements to their business. If an appeal decision cannot be made on the basis of paperwork alone, the costs of any additional inspection related to the appeal will be borne by the applicant unless it results in a higher rating being awarded.												
Combination of licensable activity	Where operators are undertaking a combination of activities eg dog boarding and dog breeding the operator will pay the highest of the total of application and grant fees plus an additional fee for each activity for the preparation of report										£79 cost of preparation of an additional activity report		
Request for Re-rating after the granting of a licence	Request for Re-inspection after the granting of a licence, a new rating must not be given on the basis of documentary evidence alone if re-rating results in the licence being lengthened an additional enforcement cost will be charged												
Animal boarding											£188		
Dog breeding											£208		
Hiring of horses											£208		
Selling animals as pets											£188		
Variations to reduce the number of animals or licensable activities	Where a change in conditions of the licence is requested which does not warrant a re-inspection										£75 administrative fee		
Transfer due to death	If a licence holder dies, the personal representative of the deceased can take on the licence provided that they inform the local authority within twenty-eight days of the death that they are now the operators of the licensable activity.										£50 administrative fee		
Copy of a licence	Cost of checking request and processing the licence and fee										£21 administrative fee		

Public Register

The number of licences currently being processed is as follows

Licence start date	Licence end date	Licence Category	Trading Name	Star Rating
01-Jan-2019	31-Dec-2021	Selling animals as pets	Maidenhead Aquatics Norwich	5 star *****
01-Jan-2019	31-Dec-2021	Day care for dogs	Bridget's Dog Boarding	5 star *****
01-Jan-2019	31-Dec-2021	Day care for dogs	Sue Harvey @ Muddy Paws	5 star *****
01-Jan-2019	31-Dec-2021	Selling animals as pets	Jollyes The Pet Superstore	5 star *****
01-Jan-2019	31-Dec-2021	Selling animals as pets	Pets at home Ltd	5 star *****
01-Jan-2019	31-Dec-2021	Day care for dogs	Petpals (Norwich)	4 star ****
01-Jan-2019	31-Dec-2021	Selling animals as pets	Notcutts	5 star *****

Animal activities licensing – Privacy notice**About us**

Norwich City Council is the data controller for Animal activities licensing within Norwich and we have a legal obligation to process your personal information. You may contact our data protection and information security officer by emailing dataprotection@norwich.gov.uk or by calling 0344 980 3333.

What will we do with your data?

We use it to process your licence application.

We intend to keep your data for 7 years, as stated in our retention policy available on our website.

What are your rights?

You have the right to request access to your personal information; ask for errors to be corrected; restrict how your information is used; object to how it is processed; or request that your data is deleted. You also have the right to lodge a complaint with the Information Commissioners Office if you are not happy with how your data is processed.

What are the consequences of you not providing data?

We will be unable to process your licence application.

How will we share your data?

We will only use this information in conjunction with your application and any licence issued. This may include checks with a Veterinary Surgeon / Practitioner, DEFRA, RSPCA, UKAS-accredited body, Planning Service, Trading Standards, Animal Welfare Team and Legal Team and referral to the Council's Licensing Committee.

A Public Register is maintained on Norwich City Council website which details

- Licence Unique Reference Number
- Trading Name
- Licence Start Date
- Licence Expiry Date
- Licence Category
- Star Rating

Apart from where previously stated, we do not pass your details to third parties unless we are lawfully able to do so for the prevention and detection of crime and fraud, or for the collection of taxes.

Animal activity licensing frequently asked questions

The process of providing a risk rating

Q1. When should businesses be rated?

Businesses should be rated following an inspection that takes place prior to grant/renewal of the licence or a requested re-inspection. Businesses may also be re-rated following an unannounced or additional inspection (e.g. following a complaint), if major issues are highlighted that require follow up action.

Q2. When should new businesses be rated?

New businesses should be rated following their initial inspection.

Q3. Where businesses have a licence for multiple activities within the scope of the regulations, should each activity be rated separately?

The licence holder should receive only one rating, which must cover all the activities. Where they are meeting different standards for different activities (e.g. meeting the higher standards for dog breeding, but the minimum standards for dog boarding), the overall score should reflect the lower of the two.

Q4. What information should the local authority provide with the star rating following the inspection at which a rating was determined?

The following information should be provided in writing:

- (a) The star rating itself.
- (b) Details of why the business was rated as it was. This should include a list of the higher standards that the business is currently failing to meet, or a list of the minimum standards that the business is failing to meet if it is considered to be in the minor failing category. This should also include a copy of the risk management table showing the scores under each point. Details recorded must be sufficient to support the score given for each element to facilitate internal monitoring or enable review where an appeal is made.
- (c) Details of the appeals process and the deadline by which an appeal must be made.

The appeals process

To ensure fairness to businesses, local authorities must have an appeal procedure in place for businesses to dispute the star rating given in respect of their business. The appeal procedure is relevant where the business wishes to dispute the star rating given as not reflecting the animal welfare standards and risk level of their business at the time of the inspection. This should not be used if the business has made improvements to their business and wishes to be reassessed – in this case, they should apply for re-inspection

Q5. How can a business appeal their star rating?

If a business wishes to appeal the star rating given by the 'inspecting officer' (i.e. the officer undertaking the inspection) on behalf of the local authority, the appeal should be made in writing (including by email) to the local authority.

A business disputing a rating should be encouraged to discuss this informally first with the 'inspecting officer' so that there is an opportunity to help explain to the business how the rating was worked out, as this may help resolve the matter without the business having to lodge an appeal. Any such discussions do not form part of the formal appeal process and do not change the deadline within which an appeal must be lodged. This should be made clear to the business so that they may lodge an appeal, and may subsequently withdraw it, if they wish.

Businesses have 21 days (including weekends and bank holidays) following the issue of their licence in which to appeal the star rating.

Q6. How will a local authority determine the outcome of the appeal?

The appeal should be determined either by the head of the department that issued the licence within the local authority, or by a designated deputy, or by the equivalent in another authority. No officer involved in the production of the rating, or in the inspection on which the rating is based should consider the appeal.

The local authority then has 21 days (including weekends and bank holidays) from the date they receive the appeal to consider the appeal, within which time they must issue a decision to the business.

A local authority will determine the outcome of an appeal by considering the paperwork associated with the inspection and the past record of the business. In some circumstances, a further visit to the establishment may be required. The appeal process should be transparent. The costs of any additional inspections related to the appeal will be borne by the applicant unless it results in a higher rating being awarded. This will depend on the nature of the dispute and whether a decision can or cannot be made on the basis of the paperwork.

Q7. What if the business disagrees with the outcome of the appeal?

If the business disagrees with the outcome of the appeal, they can challenge the local authority's decision by means of judicial review. The business also has recourse to the local authority complaints procedure (including taking the matter to the Local Government Ombudsman where appropriate) if they consider that a council service has not been properly delivered

Requests for re-inspections for re-rating purposes

To ensure fairness to businesses, local authorities must have a procedure in place for undertaking re-inspections at the request of the business for re-assessing their star rating.

The re-inspection mechanism applies in cases where businesses with ratings of '1' to '4' have accepted their rating and have subsequently made the necessary improvements to address non-compliances identified during the local authority's previous inspection. Businesses should be aware that re-inspection for re-rating purposes could lead to a lower rating being awarded rather than an increase in rating.

Q8. Who pays for a re-inspection visit?

Re-inspection falls under full cost recovery, and so the business will be required to pay for the costs of the inspection.

Q9. When is the inspection carried out?

The re-inspection should be carried out within three months of receipt of the request. Where an inspection does not occur within the three months, the business can raise the issue with the head of the licensing department within the local authority. If the matter cannot be resolved, the business has recourse to the local authority complaints procedure.

Q10. How many re-inspections can a business request?

There is no limit to the number of re-inspection visits a business can request, however, there will be a fee for each visit charged at full cost recovery.

Q11. How should a business request a re-inspection?

The request should be made in writing (including by email) and should outline the case for a re-inspection, i.e. it should indicate the actions that have been taken by the business to improve the level of compliance or welfare since the inspection and, where appropriate, should include supporting evidence. The supporting case should refer to those actions that the local authority informed the business would need to be made in order to achieve a higher rating.

Q12. Must the local authority accede to all requests for re-inspections?

No. If the case made by the business is not substantiated or insufficient evidence is provided, the local authority can refuse to undertake a re-inspection on that basis. In doing so, the local authority must explain why the request is being refused at this stage and should re-emphasise the priority actions that must be taken in order to improve the rating and indicate what evidence will be required for agreement to a re-inspection to be made on further request. If the business disagrees with the local authority's decision to refuse a request for a re-inspection, they can raise the issue with the head of the licensing department within the local authority. If the matter cannot be resolved, the business has recourse to the local authority complaints procedure.

Q13. Where there is a supporting case, must a re-inspection be made or can a new rating be given on the basis of documentary evidence?

A re-inspection must be made. A new rating must not be given on the basis of documentary evidence only.

Q14. Where a re-inspection is to be undertaken, should this be unannounced?

This will depend on the reason for the re-inspection. This can be by appointment, unless an unannounced visit is necessary to ensure that compliance is checked properly (e.g. if the non-compliance was related to cleanliness standards).

Q15. If standards have not improved or have deteriorated at the time of the re-inspection, should a lower rating be given?

At the time of the re-inspection, the local authority officer should not only check that the required improvements have been made, but should also assess the ongoing standards. This means that the rating could go up, down or remain the same as can the length of the licence.

Q16. Should the ratings be published?

The star rating must be added to the licence and the licence should be displayed by the business. In addition, the local authority will maintain a list of licensed businesses and their associated ratings on their website. This will include

- Licence Unique Reference Number
- Licence start date
- Licence end date
- Licence Categories
- Trade Name
- Star Rating

Q17. Can a licence be suspended, varied or revoked?

A local authority may at any time vary a licence:

- (a) On the application in writing of the licence holder, or
- (b) On their own initiative, with the consent in writing of the licence holder.
- (c) In addition to the above a local authority may suspend, vary or revoke a licence without the consent of the licence holder if:
 - i. The licence conditions are not being complied with,
 - ii. There has been a breach of the Regulations,
 - iii. Information supplied by the licence holder is false or misleading, or
 - iv. It is necessary to protect the welfare of an animal.

Such a suspension, variation or revocation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal in which case you may stipulate that the decision has immediate effect.

Report to	Licensing committee 05 September 2019	Item
Report of	Head of citywide services	6
Subject	Adoption of the National Register of Refusals and Revocations (NR3), hosted by the National Anti-Fraud Network (NAFN).	

Purpose

To consider adopting the National Register of Refusals and Revocations (NR3), hosted by the National Anti-Fraud Network (NAFN).

Recommendation

To:

- (1) approve the adoption of the National Anti-Fraud Network National Register of Refusals and Revocations (NR3);
- (2) approve a new policy in respect of requests for and use of information as a result of an entry on NR3, to support the adoption of the NR3; and
- (3) authorise changes to the Norwich City Council Hackney carriage and private hire licences 'Consideration of criminal conduct, improper behaviour and complaints relating to existing licence holders and new applicants' Criminal convictions policy, to support the adoption of the NR3.

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

Mail shot to past and present licence holders to be met from existing budget.

Ward/s: All Wards

Cabinet member: Councillor Maguire - Safe and sustainable city environment

Contact officers

Michael Stephenson, Environmental health and public protection manager 01603 212283

Tony Shearman, Public protection manager 01603 212278

Background documents

None

Report

Introduction

1. The Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or private hire vehicle (PHV) licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in both the hackney carriage and PHV trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a taxi or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the hackney carriage and PHV trade, safety groups and charities, the Department for Transport and by licensing authorities.

Adoption

2. This report proposes the adoption of the NR3 by Norwich City Council from 01 December 2019.

New Policy

3. This report recommends approval of a new policy, in respect of requests for and use of information as a result of an entry on NR3, see Appendix 2. This policy follows a template recommended by the Local Government Association, Guidance on adopting the National Register of Taxi Licence Revocations & Refusals NR3; see Appendix 1.

Revised Policy

4. This report recommends the following changes to the current Norwich City Council Policy ['Consideration of criminal conduct, improper behaviour and complaints relating to existing licence holders and new applicants'](#) so that new applicants are aware of the register and the potential posting of their personal data on the Register following a refusal or revocation of a hackney carriage and/or PHV driver's licence.

- a) At the bottom of the Suspensions / Revocations, section 21 of the policy to add the following wording

The Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN) with restricted access to Licensing Authority staff. The intention of this is to prevent drivers who have had a hackney carriage or PHV licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in both the hackney carriage and PHV trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a taxi or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the hackney carriage and PHV trade, safety groups and charities, the Department for Transport and by licensing authorities.

From 01 December 2019 this authority will begin using the NR3. This means that from that point:

- applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3
- where an existing licence is revoked, or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of 25 years.

The information recorded on NR3 in respect of your case is limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective.

Information will be retained on NR3 for 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the Policy in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3 [see Appendix 2]

Norwich City Council will still consider each application on its own merits, but the introduction of NR3 will help ensure that consideration is made on the basis of all the information that is relevant to an application.

- b) To ensure that all applicants read the policy rename the policy to 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' and no longer refer to it as 'Convictions Policy' on the website.

5. If this committee chooses to adopt the use of the NR3 register the following further measures will be taken.

a) Application Form updated with the following questions,

Have you ever had an application for a private hire or hackney carriage driver's licence refused by any Local Authority including Norwich City Council?

Have you ever had a licence for a private hire or hackney carriage driver's licence revoked by any Local Authority including Norwich City Council?

b) The application form will also include a paragraph explaining the NR3 Register to applicants, the information recorded and signposting them to the 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades'.

c) Letters

- Notification to existing licensees of NR3
- Notification to former licence holders or applicants whose details will be entered onto NR3
- NR3 information disclosure form request

d) The following registers will be kept by the Licensing Team

- Register of Norwich City Council searches of NR3 Register
- Register of Norwich City Council response to another LA request for further information following a search of NR3 Register

e) Retention Schedule, updated with a 25 year retention schedule for data held with respect to NR3.

f) Webpages and links to alert and signpost applicants to new policy/documentation.



Guidance on adopting the National Register of Taxi Licence Revocations & Refusals (NR3)

Contents

1. Background
2. Objective of NR3
3. Voluntary disclosure of previous licensing history
4. NR3 - an overview
 - 4.1. Accessing the register
 - 4.2. Register functionality
 - 4.3. Historic data migration
5. Updating licensing processes and procedures
 - 5.1. Informing applicants of the NR3 register
 - 5.2. Adding details of a refusal or revocation
 - 5.3. Checking the register as part of the application and renewal process
 - 5.4. Acting on detailed disclosures
6. Complying with data protection requirements
 - 6.1. Updating the licensing policy, application forms and guidance
 - 6.2. Making existing licensees aware

Annex A – guidance on amendments to policies and forms

Annex B – suggested notification to existing licensees of NR3

Annex C - suggested notification to former licence holders or applicants whose details will be entered onto NR3

Annex D – Suggested template policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3, including template disclosure form

1. Background

Licensing Authorities are required to satisfy themselves that those holding hackney carriage and Private Hire Vehicle (PHV) driver licences¹ are 'fit and proper' to do so. This is done firstly during the determination of an application for a licence, and then at any time during the currency of a licence. For example when evidence is obtained that suggests that a licensed individual is not a fit and proper person the licensing authority is entitled to suspend, revoke or refuse to renew a licence.

The process of assessing whether an applicant or licensee is 'fit and proper' may vary between authorities but there is widespread consensus on the need to increase consistency and set national minimum standards for the fit and proper test at a suitably high level. This would help prevent individuals who have had a licence revoked by one authority from simply going to another area and securing a licence - assuming the second authority was aware of the earlier revocation.

At the moment, if drivers do not disclose information about a previous revocation or refusal of a licence, there is often no way for a licensing authority to find this information out. This means that vital intelligence about an applicant's past behaviour is being missed and an individual might be able to get a new licence in another area, despite having their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriages and PHVs, and left licensing authorities open to criticism for something that is currently very difficult for them to control.

In response to this issue, the Local Government Association (LGA) has commissioned the development of a national register of hackney carriage and PHV driver licence refusals and revocations, the 'National Register of Refusals and Revocations' or NR3. The new register will allow licensing authorities to record details of where a hackney carriage or PHV drivers' licence has been refused or revoked, and allow licensing authorities to check new applicants against the register. This should help to prevent people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure. For the avoidance of doubt, NR3 does not extend to vehicle or operator licensing decisions.

This guidance note provides information on the steps that licensing authorities should take to ensure that they have the necessary supporting procedures in place to make use of the register. Specific user guidance and training materials on using the register will be published separately.

Important

Licensing authorities will be data controllers in relation to their processing of personal data in connection with NR3, including in relation to uploading information to NR3, consulting NR3, and disclosing or receiving information about individuals who appear on NR3. Licensing authorities are therefore strongly advised to work closely with their information governance and legal teams to assure themselves that they are taking the necessary steps to comply with data protection and other laws in regard to NR3.

¹ Throughout this document, this term includes dual or combined Hackney / PHV licences.

2. Objective of NR3

The simple objective of the national register is to ensure that authorities are able to take properly informed decisions on whether an applicant is fit and proper, in the knowledge that another authority has previously reached a negative view on the same applicant. This will be achieved by providing a mechanism for licensing authorities to be able to check whether an individual has had a licence refused or revoked. Whenever a licensing authority processes a new application for a hackney carriage/PHV driver's licence, or for a renewal, it should check the register at a suitably early stage of the process to confirm whether the applicant was subject to a previous licensing decision that they should be aware of.

Every application must always be considered on its own merits. A licensing authority must not fetter its decision-making, or appear to have simply relied upon the previous decision of another authority. The purpose of the register is not to mean that an applicant who has been refused a licence on one occasion will always be refused.

However, it will always be relevant for an authority to consider a previous refusal or revocation, and the reasons for that decision. That previous decision may in many cases warrant significant weight to be given to it. Licensing authorities will wish to think carefully about taking a different view to an earlier decision. Depending on the nature and context of the earlier decision, they may require strong and new evidence to support a different view, having regard to the representations of the applicant. Any authority will wish to have proper respect for the decision of a previous authority, having regard to the fact that a driver had the right of appeal to the Magistrates' Court against a decision which was wrong or flawed. Without this approach, the objectives of safeguarding and consistency – and the reputation of local government – will be undermined.

The register will not record suspensions of drivers' licences. This is for the following reasons:

- i. any suspension that was later lifted because the original information was false or unsubstantiated would have to be removed from the register, but any search during the period that the information remained in the register might prejudice a subsequent application
- ii. suspension should not be used as an interim step pending revocation. If the matter is serious enough to warrant a driver being prevented from driving, revocation should be the action taken²; and
- iii. where a suspension period is imposed as a short-term punishment for minor transgression, this should not influence a subsequent decision, as further serious non-compliance should lead to revocation³. Accordingly any pattern of unacceptable behaviour should be identified by revocations or refusals to renew, rather than by a recurring pattern of suspensions.

For these reasons, no records of suspension should be included, including migration of historic records relating to suspension.

² See *R (on the application of Singh) v Cardiff City Council* (Admin), [2013] LLR 108 and *Reigate & Banstead Borough Council v Pawlowski* [2018] R.T.R. 10

³ Suspension as a punishment is permissible – see *R (on the application of Singh) v Cardiff City Council* [2013] LLR 108

3. Voluntary disclosure of previous licensing history

NR3 provides a mechanism for sharing information about an individual's previous licensing history if they have had a licence revoked or an application for one refused. Most licensing authorities already ask applicants to indicate on their application forms whether they have previously had a licence revoked or refused. With the introduction of NR3, authorities should ensure that the request for this information is clearly set out on the application form and accompanying guidance notes. Where an applicant fails to volunteer information that has been clearly requested but which is subsequently identified through NR3, this may in itself raise questions about the applicant's integrity and status as a fit and proper person.

4. NR3 - an overview

4.1. Accessing the register

The national register is hosted by the National Anti-Fraud Network (NAFN). Access to the register is only available to members of NAFN. Licensing authorities are encouraged to join up to NAFN and recover the cost of this through their taxi licence fees. NAFN can be contacted by email on general@nafn.gov.uk.

NAFN members will need to sign up specifically to the NR3 element of the NAFN database, which will allow access to the dedicated portal. This is a relatively straightforward process and can be done by contacting NAFN.

A relevant officer will need to be designated as a single point of contact (SPOC) as part of the registration process. Authorities which already use the NAFN system will already have an existing SPOC in place (or potentially multiple SPOCs for different areas of functionality), so consideration will need to be given to the interaction between existing NAFN contacts and the new NR3 functionality.

Once set up on the register, other officers will be able to create user accounts which will allow them to submit data or search the register, but these accounts will need to be verified/approved by the SPOC. Consideration should be given to the number of officers that need to be set up with user accounts to enable them to use the register to search / input information.

Subscribing to the national register will require local authorities to sign up to data sharing and data processing agreements with NAFN. These agreements outline the necessary steps the authority will need to take to ensure compliance and will cover requirements under both the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA).

4.2. Register functionality

The register has two basic elements of functionality; it enables authorities to record details of relevant drivers, and it enables them to undertake searches of the data held in the register.

Licensing authorities will be responsible for adding basic details of drivers who have had a licence revoked or an application for one refused. The intention is that when a licensing authority receives an application for a licence or a renewal, the applicant's details will be checked on the register to confirm that there is no record of them having being revoked or refused elsewhere.

Details contained on the register will be limited to information that will help to identify an individual to a certain degree of accuracy, but will not give a reason or explanation of why an action was taken. It will be up to individual authorities to follow up on any searches which come back with a match with the appropriate licensing authority, whose contact details will be included in the search result.

Details will be kept on the register for a period of 25 years, and local authorities will therefore need to ensure that their own information governance policies reflect this. The register has been developed to support public safety through the potential sharing of information that is relevant to consideration of whether an individual is a fit and proper person to hold a taxi licence. There will be instances where the basis for an individual's licence being revoked or refused is sufficiently serious as to remain relevant to a future taxi licence application however far in advance it is submitted; for example, where it concerns an issue of sexual misconduct in relation to a passenger. The data retention period for the register has therefore been set to reflect the potential gravity of some revocations and refusals, and the need for this information to be shared. However, as set out later in this document and in the supporting policy at Annex D, any information to be shared between authorities outside of the register must be shared on a proportionate and time limited basis, in accordance with the authority's policy for doing so. If an authority did not take a case specific approach but chose to share all data over the full retention period, this would be likely to be disproportionate and therefore unlawful.

Authorities will need to ensure that their information governance policies are updated to make reference to the NR3 retention period, the associated retention period for supporting taxi licence data, and the rationale for it.

4.3. Historic data migration

The first step once subscription to the register has been completed is to populate the register with historic data of licence revocations and refusals. To do this, licensing authorities will need to submit historic data via CSV file to NAFN. NAFN have provided a standard template to use to submit data.

The majority of licensing authorities will use an electronic licensing system, and therefore will be able to obtain extracts from their licensing systems which can then be cut and pasted into the spreadsheet. However, if authorities use a manual system to issue licenses, they will need to manually fill out the spreadsheet.

In order to comply with data protection law, there must be a point beyond which historic data will not be uploaded. It is difficult to determine what that should be. However as the retention period for data on the register is 25 years, this appears to an appropriate period. Accordingly no historic data more than 25 years old should be uploaded to the register. It is important to note here that the 25-year data retention period begins at the point at which a licence was refused or revoked, rather than the date when the data was uploaded to the register.

Crucially, it is vital to ensure that any historic data which is uploaded by a licensing authority has not been retained in contravention of that authority's own retention policy. It is accepted that this may lead to differing ages of historic data being uploaded, but that is unavoidable to ensure compliance with data protection law.

Before any historic data is uploaded, the authority must write to those individuals who the data concerns stating that the data will be uploaded at a future date, which should be a

period of not less than 28 days. Individuals should be informed about the purposes of the data processing, the legal basis for it, and their various rights to object in regard to this.

Although the letters do not specifically need to invite representations about the proposal, any representations that are made in that period should be considered by the authority and data should only be uploaded where the authority feels that it is fair and appropriate to do so. This will not prevent historic data being uploaded, but will ensure that where data is held which may be uploaded, there is an opportunity for the authority to reconsider whether that is the correct action to take. A template letter for contacting former licence holders is attached at Annex C.

Once historic data has been submitted, any new revocations or refusals will need to be entered onto the NAFN register portal by a licensing officer as and when decisions are taken.

5. Updating licensing processes and procedures

Using the register will necessitate some key changes to the way applications and renewals are processed and information recorded.

5.1. Informing applicants of the NR3 register

Applicants must be informed of the existence of the NR3 register and that it will be consulted in connection with their application (and subsequent applications to renew licences).

They must also be informed that their personal data will be placed on the register if at any time their licence is revoked or renewal is refused.

Licensing authorities in receipt of applications must ensure that applicants are given the contact details of the data protection officer for the licensing authority, contact details for NAFN, and are advised of the fact that the information can be retained for up to 25 years (which is the retention period) and the fact they have a right to lodge a complaint with the Information Commissioner, together with the contact details for the Information Commissioner. It is suggested that this information is included in the privacy information provided to individuals when they apply for a licence. This is discussed further in 6.1.

5.2. Adding details of a refusal or revocation

When an application for a licence is refused, or an existing licence is revoked, authorities will need to enter this information onto NR3. It will be important to ensure that authorities only enter refusals that have genuinely been considered and refused; NR3 is not intended to capture details of incomplete applications which an authority does not process. The key point is that a decision has been taken because there is evidence that an individual is not a fit and proper person to hold a licence.

Entering this information will be a simple and quick step, as only a limited amount of information will be added to the register: the individual's details; the date of the decision; the date it takes effect; and the decision taken – but not the reason for the decision.

Several authorities have reported that individuals who have had a licence revoked have previously moved very quickly to try to gain a licence elsewhere. It will therefore be important that authorities are prompt in adding the details of refusals or revocations to the register, so

that the information is available in the event that an individual does seek to secure a licence from another authority.

Authorities should ensure that they include the entries onto NR3 in their authority wide records of their data processing activities.

5.3. Checking the register as part of the application and renewal process

The second process change will relate to applications for hackney carriage/ PHV driver licences. Licensing authorities will also wish to check the register when they undertake licence renewals; firstly to confirm any historic information that may have been added in respect of one of their licensees, but also because it is possible that some drivers may hold more than one licence, and could therefore have one revoked in another area.⁴

This in itself is a two-stage process: stage one is the checking of the register; stage two is making a request to the authority that uploaded the information to the register for details of the revocation or refusal.

Once signed up to the register, licensing authorities will need to ensure that they check the details of new applicants on the register, to identify whether they have a previous licensing history (which may or may not have been disclosed on an application). Individual authorities will need to determine the appropriate point in their application process at which to check the register; however, it is suggested that this is done at a very early stage so that the authority can process the application with the knowledge of any previous history, if the applicant has one.

Guidance on using the register will set out the search parameters that authorities can use. It has been recognised throughout the process that individuals may use different names or provide different details to different authorities - perhaps in an attempt to avoid association with any previous issues – and searches should therefore take this into account.

If a search of the register does not indicate that an applicant has any previous history the authority should be aware of, then the authority should continue to process the application as normal. A negative search result will not, of course, mean that the applicant is a fit and proper person; that will be for the authority to assess in the usual way.

If a search does indicate a possible match on the register, then the authority will need to move on to stage two and seek further information. The register will indicate which authority has entered a possible match, and provide contact details for that authority.

It is suggested that an authority seeking information from another authority about an entry on the register should make a request in writing for the information on which the decision recorded in the register was based (a suggested form is included at the end of Annex D). Authorities are encouraged to respond to such requests as soon as possible, and ideally within 10 working days of receiving a request.

⁴ The growth of app-based models and sub-contracting changes introduced by the Deregulation Act have both facilitated increased 'out of area' working, and may therefore make it less likely that in the future, under the existing framework, a driver would hold more than one licence.

The sharing between licensing authorities of this more detailed data - which may often involve the processing of special category personal data⁵ - is not included within the data processing and data sharing agreements governing use of the register itself. Any authority which shares information in response to a request, and any authority which receives information having made a request, must have in place a clear and published policy which governs its approach to the circumstances in which it will share, receive and use information of this type. It must be recognised that information will not be shared following every request. The authority that receives the request must consider whether it is actually proportionate to share this information, and ensure that disclosures are not arbitrary. This must also be detailed in their policy document. Having such a policy is a requirement of data protection law, Article 8 of the European Convention on Human Rights and of public law.

If such a policy is in place which properly differentiates between circumstances, both authorities will be entitled to rely on processing conditions under Article 6(1)(e) and, in cases of special category data, Articles 9 and 10 GDPR⁶. Licensing authorities will need to satisfy themselves that they have followed the appropriate processes in sharing this more detailed data.

The authority that receives the request must consider what information, if any, to reveal to the requesting authority. This is not intended to undermine the effects of the register: it is essential to ensure that disclosures are compatible with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act. In making its decision the authority must consider the nature and seriousness of the conduct which led to the revocation or refusal to renew, and the time that has elapsed since the decision was made.

This will require not only a clear published policy, but also a decision-maker who has sufficient training and knowledge of the requirements to enable him/her to make an informed decision regarding disclosure.

It is suggested that where the time that has elapsed since the revocation or failure to renew exceeds the time limits relating to the particular conduct that are contained in the Institute of Licensing's "Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades"⁷, serious consideration should be given as to whether or not the information should be revealed.

A suggested template policy is attached at Annex D.

To ensure compliance with article 30 of the GDPR, the authority must maintain a clear written record of every disclosure made following a search of the register. This should be a separate document, and it is not sufficient to simply mark an existing register of licences.

⁵ Special category personal data is sensitive data that could reveal someone's racial or ethnic origin, political opinions, religious beliefs, trade union membership, and data concerning health or sex life.

⁶ Found in Parts 1, 2 and 3 of the DPA 2018.

⁷

[https://cplresourcestorage.blob.core.windows.net/documents/226798_Guidance%20on%20Suitability%20ONLINE%20PDF%20\(2\).pdf?sv=2013-08-15&sr=b&sig=sLMffzDNvtMihhMQ2xu1vOIUEQbD1n05TTY%2BrDTv9UM%3D&st=2018-07-17T14%3A28%3A32Z&se=2018-07-17T14%3A34%3A32Z&sp=r](https://cplresourcestorage.blob.core.windows.net/documents/226798_Guidance%20on%20Suitability%20ONLINE%20PDF%20(2).pdf?sv=2013-08-15&sr=b&sig=sLMffzDNvtMihhMQ2xu1vOIUEQbD1n05TTY%2BrDTv9UM%3D&st=2018-07-17T14%3A28%3A32Z&se=2018-07-17T14%3A34%3A32Z&sp=r)

The document must include the fact that disclosure was made, but not specify the contents of that disclosure.

5.4. Acting on detailed disclosures

The licensing authority that receives a disclosure under stage two must then act upon it. As detailed above, the information may warrant significant weight being attached to it, but it is vital authorities do not use evidence of a previous refusal or revocation as the sole basis for their current decision.

To ensure compliance with article 30 of the GDPR, the authority must maintain a clear written record of the action that is taken following the receipt of information from the register. This should be a separate document, and it is not sufficient to simply mark an existing register of licences.

6. Complying with data protection requirements

Licensing authorities will need to ensure that any individuals whose data is uploaded or entered onto NR3 is made aware of this: it is a legal requirement that data subjects must be made aware of the collection, storage and use of their personal data via a privacy notice.

In relation to NR3, the following details must be included in a 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 NR3 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.

These should fulfil the requirements for privacy notices, and suggested wording is provided in Annexes A and B.

Authorities will also need to ensure that they inform individuals in respect of whom a historic decision has been entered onto the register. Again, this correspondence should fulfil the legal requirements for privacy notices, and the LGA has developed a template letter that licensing authorities may wish to use for this purpose (Annex C).

Individuals whose details are contained on the register may submit a 'subject access request' (SAR) seeking copies of their details from the register at any point. **Full details of the process, mechanism and suggested point of contact for submitting a SAR must therefore be included within each local authority's policy, and also contained within application forms and supporting documentation when a licence is issued.** Should a SAR be received by an individual licensing authority, it should be dealt with as per the relevant authority's process. Licensing authorities, as the data controller, will need to liaise with NAFN, as the data processor, to fulfil SARs.

Licensing authorities will need to ensure that anyone whose details are included on NR3 is aware of their rights in relation to their data. In addition to the right to being informed, under the Data Protection Act, data subjects may have other rights in relation to the processing of their data. Various of these rights will apply in relation to the NR3, including: the right to object, the right to request access to data; the right to rectification or erasure of data, and the right to restrict processing of data.

It is important to note that although data subjects have the right to make these requests, the licensing authority does not have to agree to them. The fact that NR3 has been deemed necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller makes it very unlikely that an authority would agree to these rights, other than the rights to access individual data on the NR3 and the rectification of data where an error has been made. However, authorities will need to respond to these requests within thirty days, setting out their decision.

6.1. Updating the licensing policy, application forms and guidance

Licensing authorities will therefore need to update their hackney carriage / PHV licensing policies 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.

Authorities will similarly need to update their application forms and related paperwork (such as guidance notes) 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.

These statements should provide assurance that this information will be processed in accordance with the DPA and GDPR. Suggested forms of words are included at Annex A.

Where an authority decides to refuse or revoke a hackney carriage / PHV licence (the first authority), the decision notice should refer to the authority's earlier notification in guidance and on application forms that the decision will be entered onto NR3. It should also make clear that if the individual makes an application to another licensing authority (the second authority) for a drivers' licence at a later date, the second authority will check the register, and the details of the refusal or revocation may be provided to them by the first authority, in line with their policy for disclosing information.

6.2. Making existing licensees aware

As well as new applicants, you will also need to make existing licensees aware of the fact that the authority has signed up to the register, and that if their licence is subsequently revoked or not renewed, this will be recorded. A suggested form of words is included at Annex B.

Annex A – guidance on amendments to policies and forms

Authorities will need to update their application forms and related paperwork (such as guidance notes) 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.

The statements included in forms and guidance 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.

Where an authority decides to refuse or revoke a hackney carriage / PHV licence, the decision notice should refer to the authority's earlier notification in guidance and on application forms that the decision will now be entered onto the national register.

I. Suggested form of additional wording for licensing policy document and application paperwork

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence

Therefore:

- Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken

- date of decision
- date decision effective

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of [applying for] [being granted], a hackney carriage / PHV driver licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at [link / set out separately].

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

II. Suggested form of additional wording for decision letter concerning refusal of an application

In accordance with [insert appropriate reference to policy document or application paperwork explaining membership and implications of NR3], the decision to refuse your application will be entered onto the National Register of Taxi Licence Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence in future, but is intended simply to ensure that licensing authorities

are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we may provide our reasons for the refusal of this application, in accordance with our policy at [details/link].

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

III. Suggested form of additional wording for decision letter concerning revocation

In accordance with [insert appropriate reference to policy document / application paperwork / letter to existing licence holders explaining membership and implications of NR3], the decision to revoke your licence will be entered onto the National Register of Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence, but is intended simply to ensure that licensing authorities are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we will provide our reasons for the revocation of this licence in accordance with our policy at [details/link].

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and

the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

Annex B – suggested notification to existing licensees of NR3

To all hackney carriage / PHV / dual [combined] licence holders

Dear licensee

National Register of Taxi Licence Refusals and Revocations

I am writing to make you aware of a new initiative which X authority is involved in to help strengthen hackney carriage/ Private Hire Vehicle (PHV) licensing for the benefit of both passengers and responsible hackney carriage and PHV drivers.

As you may be aware, the Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Taxi Licence Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or PHV licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in the hackney carriage and PHV trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the taxi trade, safety groups and charities, the Department for Transport and by licensing authorities.

From [insert date], this authority will begin using the NR3. This means that from that point:

- Applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3.
- Where an existing licence is revoked or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of 25 years. Any relevant data entered onto NR3 which relates to existing licence holders may be considered as part of future renewal processes.

The information recorded on NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- the date of the decision
- the date decision was effective

Information will be retained on NR3 for 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the authority's published policy at [details/link]. Licensing authorities will still be required to consider each application on its own merits, but the introduction of NR3 will help ensure that they are able to do so on the basis of all the information that is relevant to an application.

All data processing and sharing undertaken by this authority on the NR3, and with individual authorities in regard to entries on the NR3 will be undertaken in accordance with the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR). The legal basis for processing this information is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details].

You always have the right to make a complaint to the Information Commissioner's Office.

Yours sincerely

Licensing authority

Frequently asked questions

Why has the register been set up?

NR3 has been developed to improve public safety and confidence in hackney carriage and PHV licensing. 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. This is why 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.

How will the register work – what information will be recorded?

When an authority revokes a licence, or refuses an application for one, it will record this information on NR3. The information recorded will be limited to:

- name
- date of birth
- address and contact details
- national insurance number

- driving licence number
- decision taken
- date of decision
- date decision effective

Licensing authorities will then search the register when they are processing new applications or renewals. Where an authority finds a match for their applicant on NR3, it will contact the licensing authority that recorded the entry to seek more information, which, if shared, will then be used to help reach a decision on the application.

Will I automatically be refused a licence if I am on the register?

No. Licensing authorities are legally required to consider each licence application on its own merits, and cannot refuse an application simply because an applicant may be recorded on NR3. The purpose of NR3 is to ensure that 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 on NR3, it may be appropriate for another authority to award a licence.

What if my licence is suspended?

Suspensions of licences will not be recorded on NR3. This is because suspension should be used as either a short-term punishment or to overcome a short-term situation (e.g. 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.

Can I find out if my details are on the NR3?

Individuals whose details are added to NR3 will be notified of this at the point at which they are advised of the decision to refuse or revoke a licence.

Outside of these times, an individual can make a subject access request (SAR) for any of their personal data held on NR3. The 'data controller' in respect of this data is this licensing authority, to whom a SAR should be submitted in the first instance. As the 'data processor', that is the organisation storing the data, the National Anti-Fraud Network will fulfil this request. Similarly, the exercise of any other rights provided under data protection legislation should be made to this authority in the first instance.

How long will details be held on NR3 for?

Data will be retained on the register to help licensing authorities fulfil their statutory duty to be satisfied that a person is a fit and proper person to hold a taxi or PHV licence. These duties are set out under sections 51, 59 and 61 of the Local Government (Miscellaneous Provisions) Act 1976; sections 13, 16 and 17 of the Private Hire Vehicles (London) Act 1998; section 3 of the Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003; sections 25 and 30 of the London Cab Order 1934; sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. In accordance with this purpose, data will remain on NR3 for 25 years.

Annex C - suggested notification to former licence holders or applicants whose details will be entered onto NR3

Dear XXX

National Register of Refusals and Revocations

I am writing to make you aware of a new initiative which X authority is involved in to help strengthen hackney carriage / Private Hire Vehicle (PHV) licensing for the benefit of both passengers and responsible hackney carriage and PHV drivers.

The Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or PHV licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in both the hackney carriage and PHV trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a taxi or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the hackney carriage and PHV trade, safety groups and charities, the Department for Transport and by licensing authorities.

From [insert date], this authority will begin using the NR3. This means that from that point:

- applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3
- where an existing licence is revoked, or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of [25 years / the authority's own data retention period]. As part of this process, it is intended that the details of your previous [licence revocation / refusal] will be added to the register in 28 days' time.

The information recorded on NR3 in respect of your case is limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective.

Information will be retained on NR3 for 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the authority's published policy at [details/link].

Licensing authorities will still be required to consider each application on its own merits, but the introduction of NR3 will help ensure that they are able to do so on the basis of all the information that is relevant to an application.

All data processing and sharing undertaken by this authority on the NR3, and with individual authorities in regard to entries on the NR3 will be undertaken in accordance with the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR). The legal basis for processing this information is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

Yours sincerely

Licensing authority

Frequently asked questions

Why has the register been set up?

NR3 has been developed to improve public safety and confidence in taxi and PHV licensing. 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 another 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. This is why 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.

How will the register work – what information will be recorded?

When an authority revokes a licence, or refuses an application for one, it will record this information on NR3. The information recorded will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective.

Licensing authorities will then search the register when they are processing new applications or renewals. Where an authority finds a match for their applicant on NR3, it will contact the licensing authority that recorded the entry to seek more information, which, if shared, will then be used to help reach a decision on the application.

Will I automatically be refused a licence if I am on the register?

No. Licensing authorities are legally required to consider each licence application on its own merits, and cannot refuse an application simply because an applicant may be recorded on NR3. The purpose of NR3 is to ensure that 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 on NR3, it may be appropriate for another authority to award a licence.

Can I find out if my details are on the NR3?

Individuals whose details are added to NR3 will be notified of this at the point at which they are advised of the decision to refuse or revoke a licence.

Outside of these times, an individual can make a subject access request (SAR) for any of their personal data held on NR3. The 'data controller' in respect of this data is this licensing authority, to whom a SAR should be submitted in the first instance. As the 'data processor', that is the organization storing the data, the National Anti-Fraud Network will fulfil this request. Similarly, the exercise of any other rights provided under data protection legislation should be made to this authority in writing in the first instance.

How long will details be held on NR3 for?

Data will be retained on the register to help licensing authorities fulfil their statutory duty to be satisfied that a person is a fit and proper person to hold a taxi or PHV licence. These duties are set out under sections 51, 59 and 61 of the Local Government (Miscellaneous Provisions) Act 1976; sections 13, 16 and 17 of the Private Hire Vehicles (London) Act 1998; section 3 of the Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003; sections 25 and 30 of the London Cab Order 1934; sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. In accordance with this purpose, data will remain on NR3 for 25 years.

Annex D – Suggested template policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3

Once an authority has signed up to the NR3, it is able to search the register when an application is received for a new drivers licence, or to renew an existing drivers licence. In this annex, the searching authority is referred to as ‘the second authority.’

If a match is found, then a request can be made to the authority that entered the information onto the NR3 (in this annex, this authority is referred to as ‘the first authority’) asking for more details of the revocation or refusal of a drivers’ licence by the first authority.

The first authority can then provide information to the second authority, enabling the second authority to take the earlier action into account and make an informed decision as to whether or not the licence should be granted or renewed.

To comply with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act, it is essential that the first authority which provides information about entries on the NR3 register, and the second authority that requests and receives such information, have a clear policy detailing how and when such information will be requested, provided, and how any information provided can then be used.

This is a suggested policy to address those situations. As each authority that signs up to the NR3 may at some point be both the first authority and the second authority for the purposes of this policy, the policy is drafted as a chronological progression through the process an authority may work through as either the first or second authority.

Policy for [Council/TfL] in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3

In this policy, the ‘first authority’ refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the ‘second authority’ refers to a licensing authority which is seeking more detailed information about the entry.

I. Overarching principles

This policy covers the use that this authority [Council/TfL] will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers’ licence⁸. This information is important in the context of a subsequent application to another authority for a drivers’ licence by a person who has had their licence refused or revoked in the past.

This authority [Council/TfL] has signed up to the NR3. This means that when an application for a taxi drivers’ licence is refused, or when an existing taxi drivers’ licence is revoked, that information will be placed upon the register.

⁸ Throughout this policy reference is made to ‘taxi drivers licence.’ This generic term covers a hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, this authority [Council/TfL] will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application⁹.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated¹⁰. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined¹¹.

The data will be held securely in accordance with this authority's [Council/TfL] general policy on the secure retention of personal data [which is available at...]. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's [Council/TfL] general policy on the erasure and destruction of personal data (which is available at....).

⁹ The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

¹⁰ Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

¹¹ Decisions of the local authority, magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim 1st arose" (see The Civil Procedure Rules R54.5). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

II. Making a request for further information regarding an entry on NR3¹²

When an application is made to this authority [Council/TfL] for the grant of a new, or renewal of, a taxi driver's licence, this authority [Council/TfL] will check the NR3.

This authority [Council/TfL] will make and then retain a clear written record¹³ of every search that is made of the register. This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If this authority [Council/TfL] discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's [Council/TfL] data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

III. Responding to a request made for further information regarding an entry on NR3¹⁴

When this authority [Council/TfL] receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years¹⁵.

This authority [Council/TfL] will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

This authority [Council/TfL] will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that

¹² This section of the template policy relates to the submission of a request by the second authority.

¹³ This can be electronic, rather than "pen and paper" hard copy.

¹⁴ This section of the template policy relates to the handling by the first authority of a request for information by the second authority.

¹⁵ This record can be combined with the written record of the action taken as a result of the request.

if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority [Council/TfL] is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed¹⁶. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but this authority [Council/TfL] (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

This authority [Council/TfL] will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's "*Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades*"¹⁷ [or own policy if this differs]. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of scheduled 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

The officer will record what action was taken and why. This authority [Council/TfL] will make and then retain a clear written record¹⁸ of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- how and when the decision (and any information) was communicated to the requesting authority.

¹⁶ If the 1st authority is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of the 1st authority and the 2nd authority.

¹⁷ Available at <https://www.instituteoflicensing.org/NewsJobsArticle.aspx?NewsID=11318&NewsOrJob=news>

¹⁸ This can be electronic, rather than "pen and paper" hard copy.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

IV. Using any information obtained as a result of a request to another authority

When this authority [Council/TfL] receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications [insert reference to the [Council/TfL]'s policy for determining applications].

This authority [Council/TfL] will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority [Council/TfL] will make in relation to the application.

Appendix 1 - information disclosure form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

(For completion by requestor authority)

Name of licensing authority requesting information:

Requestor authority reference number:

Name of licensing authority from which information is sought:

Name of individual in respect of whom the request is made:

Decision in respect of which the request is made: Refusal / revocation

Other details for this record:

Address:

Driving licence #:

NI #:

Reference number:

Declaration by requesting authority:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV licences are fit and

proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request is attached to this document/can be accessed at ??.

Signed:

Name:

Position:

Date.....

(For completion by providing authority)

Further information to support the decision recorded on NR3 in respect of the above named individual

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Declaration by providing authority

The authority hereby confirms that it has conducted a data protection impact assessment.

It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements

Signed:

Name:

Position:

Date:

Norwich City Council policy document template

Policy: Requests for information, disclosure of information, and use of information as a result of an entry on National Register of Refusals and Revocations		Ref:
Published date:	Last reviewed:	
Issued by: Bob Cronk	Author:	
Approved by: Click to select	Date approved:	
Next review date:		
Purpose of guidance:		
Relevant legislation / policy:		

Document history

Version	Author	Date	Summary of changes
v0.1d			First Draft

In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

I. Overarching principles

This policy covers the use that this authority Norwich City Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licence¹. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

This authority Norwich City Council has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

¹ Throughout this policy reference is made to 'taxi drivers licence.' This generic term covers a hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

Norwich City Council policy document template

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, this authority Norwich City Council will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application².

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated³. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined⁴.

The data will be held securely in accordance with this authority's Norwich City Council general policy on the secure retention of personal data which is available at https://www.norwich.gov.uk/info/20292/data_protection_and_foi. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's Norwich City Council general policy on the erasure and destruction of personal data (which is available at https://www.norwich.gov.uk/info/20292/data_protection_and_foi).

² The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

³ Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

⁴ Decisions of the local authority, magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim 1st arose" (see The Civil Procedure Rules R54.5). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

II. Making a request for further information regarding an entry on NR3⁵

When an application is made to this authority Norwich City Council for the grant of a new, or renewal of, a taxi driver's licence, this authority Norwich City Council will check the NR3. This authority Norwich City Council will make and then retain a clear written record⁶ of every search that is made of the register. This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If this authority Norwich City Council discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's Norwich City Council data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

III. Responding to a request made for further information regarding an entry on NR3⁷

When this authority Norwich City Council receives a request for further information from another authority a clear written record will be made of the request having been received.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years⁸.

This authority Norwich City Council will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

This authority Norwich City Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority Norwich City Council is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what

⁵ This section of the template policy relates to the submission of a request by the second authority.

⁶ This can be electronic, rather than "pen and paper" hard copy.

⁷ This section of the template policy relates to the handling by the first authority of a request for information by the second authority.

⁸ This record can be combined with the written record of the action taken as a result of the request.

information will be disclosed⁹. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but this authority Norwich City Council (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

This authority Norwich City Council will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's (IOL) *"Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades"*¹⁰ [or own policy if this differs]. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IOL guidance) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IOL guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of scheduled 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

The officer will record what action was taken and why. This authority Norwich City Council will make and then retain a clear written record¹¹ of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- how and when the decision (and any information) was communicated to the requesting authority. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years

IV. Using any information obtained as a result of a request to another authority

⁹ If the 1st authority is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of the 1st authority and the 2nd authority.

¹⁰ Available at

<https://www.instituteoflicensing.org/NewsJobsArticle.aspx?NewsID=11318&NewsOrJob=news>

¹¹ This can be electronic, rather than "pen and paper" hard copy.

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When this authority Norwich City Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications [insert reference to the [Council/TfL]'s policy for determining applications].

This authority Norwich City Council will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority Norwich City Council will make in relation to the application.

