

AGENDA

GENERAL LICENSING COMMITTEE MEETING

Date: Tuesday, 9 April 2019

Time: 7.00pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Cameron Beart (Chairman), Bobbin, Tina Booth (Vice-Chairman), Roger Clark, Paul Fleming, June Garrad, Prescott, Ben Stokes, Anita Walker and Tony Winckless.

Quorum = 3

Pages

1. Emergency Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence and Confirmation of Substitutes
3. Minutes

To approve the [Minutes](#) of the Meeting held on 2 October 2018 (Minute Nos. 246 – 254) as a correct record and to accept the minutes of the following Licensing Sub-Committees:

23 October 2018	Minute Nos. 283 – 287
19 December 2018	Minute Nos. 404 – 408
23 January 2019	Minute Nos. 450 - 454
28 January 2019 2pm	Minute Nos. 460 - 464
28 January 2019 3pm	Minute Nos. 465 – 469
19 March 2019	Minute Nos. 565 - 569

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

5. Public Session

The Council operates a scheme of public speaking at meetings of the General Licensing Committee. Requests to speak at the meeting must be registered by Democratic Services by 4.30pm on Friday 5 April 2019

and must be related to an item on the Agenda. Each speaker has a maximum of three minutes to speak.

- 6. Licensing Updates 5 - 8
 - 6.1 - OLEV/ULEV grants
 - 6.2 - Taxis
 - 6.3 - Kent Community Alcohol Partnership
 - 6.4 - Local Area Profile
 - 6.5 - Street Trading Policy
- 7. The adoption of the Taxi National Revocation and Refusals Register 9 - 46

Issued on Monday, 1 April 2019

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of this Committee please visit www.swale.gov.uk

Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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Swale Borough Council

General Licensing Committee - 9th April 2019

Della Fackrell, Resilience & Licensing Manager

Licensing key updates

6.1 OLEV/ULEV grants (Della Fackrell)

KCC were successful in their bid to the Office for Low Emission Vehicles (OLEV) for the grant of £180,000. This grant was to cover six district areas including Swale and was for 75% of the cost of the scheme. The suppliers of the units are happy to provide the 25% funding in return for a revenue share of the usage. By providing match funding and having a revenue share in the units, suppliers will have an incentive to ensure the units are well maintained and in operation. KCC will ensure there is a cap included in the contract and also a cap on the charge to taxis.

This grant is specifically to provide a rapid charging point (charges 0 – 80% in 30 minutes) for Ultra Low Emission Taxis. During the bid phase we nominated some possible locations for the charging point and have since reassessed the possibility of locating the point at Morrisons in Sittingbourne. Clearly the charging point needs to be away from the rank for access for private hire vehicles and using a public car park will affect the councils income with a loss of a space. We are currently waiting for an update from Economic Development on a contact for Morrisons.

KCC will be leading on the procurement of the units with liaison with us. This will include the supply, install and operation of the contract to ensure consistency throughout the project and ensure interoperability for taxi drivers. The units are to be installed by the end of March 2020.

KCC have proposed that ownership of the units within each District should be with the taxi licensing authority (once the installation is complete and units are operational). This would ensure that each District has overall control over the operation of the units within their District including rates for charging for use.

It would also mean that a proportion of revenue generated would be retained by the District. This will need to be determined later dependent on location of the unit as we may not want to inherit maintenance responsibility of something we have not commissioned nor that is on land not owned by Swale BC.

There is the possibility that these units can also be made available to the public by pre-booking through an app operated by the provider. As we only have one electric vehicle in the borough we are likely to make the point available for public use and will reassess when we have an increased number of electric taxis.

6.2 Taxis (Mo Bauluck)

- The taxi policy that was formally adopted to become effective as of 1st July 2018 is working well. The expanded penalty points system in particular allows licensing officers to issue penalty points that are more suited to the transgression
- The Street Knowledge Test (SKT) is now conducted online. This saves officer time in having to mark papers, allows for consistency in marking as well as candidates being told very quickly whether they have been successful or not. The new test involves the screening of a film and the answering questions on the subject of safeguarding. To assist candidates a PowerPoint has been prepared that is available on the Council website and also given to candidates before the film is screened. The pass mark for the particular section of the SKT is 100%.
- Because of the roadworks in Sittingbourne, taxi driver meetings are currently being held at 3 monthly intervals. All issues discussed are then entered onto a grid and updated with the outcome of the discussion and sent to drivers on a regular basis through taxi newsletters. We liaise with Spirit of Sittingbourne, Erith, Network Rail and Indigo/Saba and invite them to our meetings so that drivers can ask questions of them direct. At the last meeting of 2nd April 2019 a representative of Erith attended.

CURRENT AND FUTURE WORK

6.3 Kent Community Alcohol Partnership (KCAP) (Mark Reynolds)

The Sheerness Town Centre and Leysdown Community Alcohol Partnerships (CAP) are being put in place to help cut incidents of underage alcohol sales, underage drinking and to encourage responsible drinking amongst young adults.

A key aspect of the partnership will be to break down the barriers between retailers, publicans and the enforcement agencies and to recognise that by working together with the wider community, including local young people and their parents, everyone can make a difference.

The CAP's will see the Community Policing Team, Trading Standards and Swale BC working in partnership with the licensed trade, schools and youth workers. The project will be supported by Community Alcohol Partnerships CiC, the Retail of Alcohol Standards Group (RASG), which represents major retailers, and is backed by the Wine and Spirit Association. The date of the launch of the project is yet to be decided but is likely to be Summer 2019.

6.4 Local Area Profile (Mo Bauluck)

Members will recall that at the latest Gambling Act 2005 Statement of Principles was presented to this Committee during 2018 and was formally adopted by full Council on 14 November 2018.

The Gambling Commission recommends that local authorities carry out an assessment of their local environment called a 'Local Area Profile' to identify the local risk of gambling-related harm and to inform the Statement of Principles. Risk in this context includes potential and actual risk and can take into account possible future and emerging risks. In order to ensure that this document could be kept up to date it was decided that it would be prepared separately from the Statement of Principles.

Officers are currently working on preparing on a Local Area Profile and are taking into account the following:

- Location schools, sixth form colleges, youth centres etc with reference to the potential risk of under-age gambling
- Hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups
- Any known information about issues with problem gambling
- The surrounding night time economy, and possible interaction with gambling premises
- The socio-economic makeup of the area
- The density of different types of gambling premises in certain locations
- Specific types of gambling premises in the local area (e.g. betting shops, arcades etc)

It is anticipated that the LAP will be presented to General Licensing Committee on 9 July 2019.

6.5 Street Trading Policy (Chris Hills)

The licensing team are still working to the Street Trading Policy 2013- 2016 when issuing Street Trading Consents so the policy is badly in need of review.

It has become apparent that the current policy does not conform to the legislation under which Street Trading Consents need to be granted (Local Government (Miscellaneous Provisions) Act 1982). Previously aspirations and historic practices were confused with law and included within the current policy and the draft that is currently being worked up by officers will need to address this issue so that the new policy will be a robust document that can stand up to legal challenge whilst not impeding the economic development of the Borough through its vibrant markets. The licensing team are working closely with officers from the Legal Department and Economic Development in this regard.

It is anticipated that a draft Street Trading Policy will be presented to Members of both the Policy Development Review Committee on 19 June 2019 and General Licensing Committee on 9 July 2019 prior to a formal 12 week consultation before being formally adopted.

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General Licensing Committee Meeting	
Meeting Date	9 th April 2019
Report Title	National Database of Taxi Licence Revocations and Refusals
Cabinet Member	Cllr Mike Cosgrove, Cabinet Member for Regeneration
SMT Lead	Mark Radford
Head of Service	Della Fackrell, Resilience & Licensing Manager
Lead Officer	Christina Hills, Licensing Officer
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. Members to note that there were no responses to the public consultation regarding the adoption of the National Register of Taxi Revocations and Refusals (NR3) 2. That the National Register of Taxi Revocations and Refusals (NR3) be adopted as Appendix R of the Swale BC Hackney Carriage and Private Hire Licensing Policy 2018-2021

1 Purpose of Report and Executive Summary

- 1.1 When considering applications for hackney carriage and private hire vehicle driver's licences, the Council must be satisfied that the applicant is a 'fit and proper' person to be granted a licence. There is no precise legal definition of this term and the Council's discretion is wide ranging.
- 1.2 The Local Government Association (LGA) and National Anti-Fraud Network (NAFN) have implemented a National Register of Taxi (also incorporating Private Hire) Revocations and Refusals, to be known as NR3 and the Committee is requested to consider adopting this Register and associated Guidance.

2 Background.

- 2.1 At the moment, if drivers do not disclose information about a previous revocation or refusal, there is often no way for a licensing authority to find this information out if it is not included on an enhanced Disclosure and Barring Service check. This means that vital intelligence about an applicant's past behaviour is missed and an individual might be able to get a new licence in another area, despite

having their licence revoked or refused elsewhere for reasons that demonstrate they are not a fit and proper person.

- 2.2 High profile instances of this happening have undermined public confidence in the safety of hackney carriage and private hire drivers, and left licensing authorities open to criticism for something that is currently very difficult for them to control.
- 2.3 The Local Government Association (LGA) therefore commissioned the National Anti-Fraud Network (NAFN) to develop and host a register. NAFN is a local authority owned, not for profit organisation specialising in data and intelligence services, and is hosted by Tameside Council. Swale is a member of NAFN.
- 2.4 The register allows licensing authorities to record details of where a hackney carriage or private hire driver's licence has been revoked, or an application for one refused, and also enables them to check new applicants against the register.
- 2.5 Guidance from the LGA and NAFN on adopting the register is attached as **Appendix I**.
- 2.6 Section 4.1 of the Guidance refers to membership of the NAFN and the need to sign-up data sharing and data processing agreements with NAFN. The Council is already a member of NAFN, therefore there will be no additional cost associated with this.
- 2.7 Where there are doubts as to an applicant's suitability to be granted a licence, the case is referred to the Licensing Sub-Committee for it to determine if the applicant is 'fit and proper' to be granted a licence.

3 Proposals

- 3.1 If the Committee is minded to adopt the register, it will involve the Council providing information on the database on revoked or refused licences and responding to information requests on these data subjects in the event that the person applies to another local authority for a licence. When a person applies for a licence with Swale the database will be checked by a licensing officer, and if an applicant appears on the database, an information request will be sent to the appropriate local authority.
- 3.2 Section 4.3.of the Guidance refers to historic data migration and refers to data being retained for 25 years on the register. The Council holds very limited historical data on individuals who have been refused a drivers licence or had one revoked, however it will be necessary to write to each individual that this affects and advise them that their information will be uploaded to the register and the reasons for this. An individual may request that the information is not uploaded and any requests of this nature will be fully considered before a final decision is

made. The suggested wording of the notification is shown as Annex C to the Guidance

- 3.3 New applicants will be made aware of the register by changes to the application form and by information on the Council website which will inform them that their information may be uploaded to it if their application is refused or any subsequent granted licence revoked. Existing licence holders will be made aware of the register via newsletters that we send out to them all and when they come to renew their licence, via changes to the application forms. Annex B to the Guidance gives the suggested wording to be used for notifying existing licence holders.
- 3.4 Section 5.3 of the Guidance refers to the disclosure of information relating to refusals and revocations and the need for the Council to have a policy which governs its approach to the circumstances in which it will share, receive and use information data from the register. A suggested template policy is included as Annex D to the Guidance. This has been replicated to form a new Appendix R to the Swale BC Statement of Hackney Carriage and Private Hire Licensing Policy and which is attached as **Appendix II**.

4 Alternative Options

- 4.1 The Council could decide not to adopt the National Register of Taxi Licence Revocations and Refusals. This could however lead to a reputational risk to the Council as we may be seen as a 'soft touch' for applicants. This may mean that inappropriate applicants would use this authority to obtain a hackney carriage or private hire drivers licence where other authorities would refuse them

5 Consultation Undertaken

- 5.1 A consultation period of ran from 22nd October 2018 until 14th December 2018. Consultees were all existing licence holders and the general public. Methods of consultation were by advertising on the Council's website and in local newspapers and where appropriate by email and post.
- 5.2 Despite the widespread consultation no responses were received. This may be because all consultees think that this is a very positive move which can only benefit the travelling public and the reputation of Swale BC as "A Council to be proud of".

6 Implications

Issue	Implications
Corporate Plan	The service is an important regulatory function undertaken to ensure safety of the travelling public when accessing licensed vehicles used in the Borough and supports the achievement of corporate priorities, including “A Council to be proud of”..
Financial, Resource and Property	There are no financial implications arising from this report as the Council is already a member of NAFN
Legal and Statutory	<p>Hackney Carriage and Private Hire licensing is a function of the borough council. The statutory powers are contained within the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>The Council is required to issue a hackney carriage or private hire vehicle driver’s licence provided it is satisfied that the applicant is fit and proper to hold such a licence.</p> <p>Each local authority can determine the criteria by which it will use when considering whether an applicant is ‘fit and proper’ to hold such a licence.</p> <p>The addition of a policy to check the National Register of Revocations and Refusals as part of the application process would allow the Council to consider whether the applicant has been refused a licence or had a licence revoked elsewhere and obtain information on the reasons for the decision being made.</p> <p>Participation in the national database is voluntary. There are currently no statutory requirements for a local authority to participate.</p>
Crime and Disorder	There are obvious links to community safety in ensuring that all hackney carriage and private hire drivers licensed within Swale BC are ‘fit and proper’ thereby ensuring the safety of the travelling public within the borough.
Environmental Sustainability	No implications
Health and Wellbeing	No implications

Risk Management and Health and Safety	Should the Council not participate in adopting the register there is a risk of: a) Issuing licences to drivers which have been refused or revoked by other authorities without this knowledge. b) An increase in driver applications to the authority from those individuals that may be listed on the register who cannot obtain a licence elsewhere
Equality and Diversity	No negative impact on differing equalities groups is foreseen
Privacy and Data Protection	As the register will involve the processing of personal data, GDPR and Data Protection Act 2018 principles will need to be followed

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: LGA and NAFN Guidance on adopting the National Register of Taxi Licence Revocations and Refusals
- Appendix II: Proposed new Appendix R to Swale BC Statement of Hackney Carriage and Private Hire Licensing Policy

8 Background Papers

None

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

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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 you:

- 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

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:

APPENDIX R

NATIONAL REGISTER OF TAXI LICENCE REVOCATIONS AND REFUSALS (NR3)

I. Overarching principles

This policy covers the use that Swale 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' licence. 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.

Swale Council has signed up to the National Register of Taxi Licence Revocations and Refusals (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.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Swale licensing officers 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 determined.

The data will be held securely in accordance with this Swale Council's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure and destruction of personal data.

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

When an application is made to this authority for the grant of a new, or renewal of, a taxi driver's licence, Swale BC licensing officers will check the NR3.

The Council will make and then retain a clear written record 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 the 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 the Council's 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 NR3

When the 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 years¹⁵.

The 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.

The 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 the Council 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 Swale Council (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

The 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 "*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. The Council will make and then retain a clear written record 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

When the 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 as set out in **Appendix D** to this policy

The 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 the Council will make in relation to the application.