

<b>General Licensing Committee Meeting</b>	
<b>Meeting Date</b>	2 <sup>nd</sup> October 2018
<b>Report Title</b>	National Database of Taxi Licence Revocations and Refusals
<b>Cabinet Member</b>	Cllr Mike Cosgrove, Cabinet Member for Regeneration
<b>SMT Lead</b>	Mark Radford
<b>Head of Service</b>	Della Fackrell, Resilience & Licensing Manager
<b>Lead Officer</b>	Christina Hills, Licensing Officer
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. That Members note the development of a national database of taxi driver licence revocations and refusals</li> <li>2. That approval is given for participation in the national database</li> <li>3. That Members instruct officers to carry out a public consultation exercise with a view to making an amendment to the Swale BC Hackney Carriage and Private Hire Taxi Licensing Policy 2018 by the adoption of a new appendix that will allow for a process to check and update the new National Register of Taxi Licence Revocations and Refusals</li> <li>4. To accept a further report after the conclusion of the consultation period where Members will consider any comments made prior to formal adoption of the additional appendix to the Swale BC Hackney Carriage and Private Hire Taxi Licensing Policy 2018</li> </ol>

## **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 refuses, 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 or Proposed**

- 5.1 Contained within the Swale BC Statement of Hackney Carriage and Private Hire Policy is the following:

Section 9.3:

Any substantial amendment to this policy will only be after further consultation with the trade and the public. All substantial amendments must be authorised by the Cabinet of the Council.

## Section 9.4

For the purposes of this section, any substantial amendment is defined as one that:

- Will have a significant effect on licence holders, or
- Will have a significant procedural effect on licence holders, or
- May not be perceived by the trade or the public to be consistent with the published objectives in section 1.3 of the policy

It will therefore be necessary to conduct a public consultation on this proposed amendment

5.1 A consultation period of 8 weeks is proposed. Consultees will be all existing licence holders and the general public. Methods of consultation will be by advertising on the Council's website and in local newspapers and where appropriate by email and post. The results of this will then be presented to the General Licensing Committee prior to formal adoption.

5.2 All incoming responses will be entered onto a grid for consideration. The Resilience and Licensing Manager together with licensing officers will conduct an evaluation of each response and give a recommendation as to whether or not to amend the policy statement. The grid and recommendations will be put before a future meeting of the General Licensing Committee for consideration and inclusion of any amendments prior to formal adoption.

## 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	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.  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>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	<p>Should the Council not participate in adopting the register there is a risk of:</p> <p>a) Issuing licences to drivers which have been refused or revoked by other authorities without this knowledge.</p> <p>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</p>
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