

To: **Licensing and Safety Committee**
22 June 2023

Update on the National Register of Taxi Licence Revocation, Refusals and Suspensions (NR3S)
Public Protection Manager

1 Introduction

- 1.1 This report informs Members of the implications and implementation of the national register of taxi licence refusals, revocations and suspensions (NR3S) which is a requirement under the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 hereafter known as the Act.
- 1.2 The report also sets out the procedure that will be followed by the Council when requesting or disclosing information associated with the register.
- 1.3 The Local Government Association (LGA), the representative body for local councils, has commissioned a new national register of taxi licence refusals, revocations and suspensions (NR3S). The register is being hosted by the National Anti-Fraud Network (NAFN).
- 1.4 The intention is to prevent drivers who have had a hackney carriage or private hire drivers licence revoked, suspended or an application for one refused, going to another council to dishonestly obtain a licence by failing to disclose their previous licensing history. It is hoped that use of the register will improve public safety and confidence in hackney carriage and private hire licensing.

2 Supporting Information

- 2.1 The Local Government Association has commissioned the development of a national register of hackney carriage and private hire vehicle driver licence refusals, revocations and suspensions known as the 'National Register of Refusals, Revocations and Suspensions or NR3S. The NR3S is a register of information about instances when a licensing authority has refused, suspended, chosen not to renew, or revoked a hackney carriage (taxi) or private hire (PHV) driver's licence, based wholly or in part on information about the driver regarding safeguarding or road safety.
- 2.2 As of the 27 April 2023 all Licensing Authorities in England are mandated to use the NR3S under the [Taxi and Private Hire \(Safety and Road Safety\) Vehicle Act 2022](#) (hereafter known as the Act).
- 2.3 The information on the database 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, revoked or suspended in the past. The Act says that an entry on the Register should be kept for 11 years from the time when it was first made.
- 2.4 Bracknell Forest Council has signed up to use NR3S. This means that when an application for a taxi or private hire drivers' licence is refused, or when an existing taxi or private hire driver's licence is suspended or revoked, that information will be placed on the register. It also means that when an application for a new drivers'

licence, or renewal of an existing drivers' licence is received, the Licensing Team will search the NR3S.

- 2.5 The Secretary of State under Section 4 of the Act has designated the National Anti-Fraud Network Data and Intelligence Services ("NAFN") to run the register. NAFN is a not for profit, unincorporated body formed by its members to provide services which support their work in the protection of the public interest. Bracknell Forest Council is a Member of NAFN.
- 2.6 The Register which was run on a voluntary basis since 2018 was originally known as the National Register of Taxi Licence Revocations and Refusals (or the NR3 Register). It has been enhanced to meet the requirements of the 2022 Act, and rebranded as the National Register of Taxi Licence Refusals, Revocations, and Suspensions (or the NR3S Register).
- 2.7 The Act says that the following can search the database, make entries on it, and amend, remove and reinstate entries that they have made:
 - 1) Licensing authorities;
 - 2) Relevant authorities;
 - 3) The Department for Infrastructure in Northern Ireland.
- 2.8 Information is added by the authorities listed above when a licensing authority decides to do any of the following, based on certain specified information about safeguarding or road safety:
 - 1) to refuse a person's application for a driver's licence;
 - 2) to refuse a person's application for the renewal of a driver's licence;
 - 3) to suspend a person's driver's licence;
 - 4) to revoke a person's driver's licence.
- 2.9 The licensing authority must add the information set out in paragraph 3.6 about the person whose licence it has refused, suspended or revoked to the database.
- 2.10 Before making a decision on a person's application for a taxi or PHV licence (or for renewal of such a licence), a licensing authority must check the Register for entries about that person. If there is an entry the licensing authority must write to the authority that made the entry, asking for the relevant information on which the recording authority based its decision about the person; and the authority that made the entry must provide it with that information.
- 2.11 The inclusion of information about a taxi or private hire driver on the register does not automatically mean that the licensing authority will refuse their application. Licensing authorities are legally required to consider each taxi and PHV driver licence application on its own merits, and cannot refuse an application simply because an applicant is recorded on the NR3S Register.
- 2.12 The purpose of the Register is to ensure that authorities have the full information necessary to help them reach a decision on whether an individual is 'fit and proper' to have a licence. For instance, if circumstances have materially changed since the decision that has been recorded on the Register, it may be appropriate for another authority to award the same individual a licence.

- 2.13 Members of the public are not permitted to consult the register.
- 2.14 Drivers can however, under the data protection legislation, make a “subject access request” to NAFN or to any authority that they think may have put information about them on the Register, asking to see the information that is held on it.
- 2.15 As part of the registration process, each licensing authority is required to nominate a relevant officer who will be designated as the NR3S Single Point of Contact (SPoC). For Bracknell Forest the SPoC will be the Licensing Manager (Principal Officer – Licensing).
- 2.16 NAFN, and each Signatory Authority, are Joint Controllers in relation to the Personal Data that the Signatory Authority records in the Database; and TMBC as Host Authority is the Processor in respect of the Personal Data in the Database.
- 2.17 NAFN and each Signatory Authority are Joint Controllers of the Database as imposed on them by the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 (TPHVA) read in conjunction with section 6(2) of the Data Protection Act 2018 (“DPA 2018”).

3. Process that will be used:

When an application for a new drivers’ licence, or renewal of an existing drivers’ licence is received

- 3.1 When an application for a new drivers’ licence, or renewal of an existing drivers’ licence is received, the Licensing Team are now required to search the NR3S. Officers will be trained to use the NR3S and they will be required to act in accordance with the legislation, guidance and Joint Controller Agreement signed by the Single Point of Contact. The authority will retain a clear written record of every search that is made of the register. This will detail:
 - 1) the date of the search;
 - 2) the name or names searched;
 - 3) the reason for the search (new application or renewal);
 - 4) the results of the search;
 - 5) the use made of the results of the search (this information will be entered to the register at a later date).
- 3.2 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 11 years.
- 3.3 If details are found that appear to relate to the applicant, a written request will be made to the authority that entered that information for further details.
- 3.4 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. The Council will take the 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.
- 3.5 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 time processing

that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

Where an application for a licence is refused, or an existing licence is suspended or revoked, the Council must record this decision on NR3S.

- 3.6 The licensing authority must add the following information about the person whose licence it has refused, suspended or revoked:
- 1) the person's full name, date of birth, home address and national insurance number;
 - 2) if the person holds a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988, the driver number shown on the licence;
 - 3) if the person holds a Northern Ireland driving licence, the driver number shown on the licence;
 - 4) if the person holds a Community licence, the number of the licence;
 - 5) the name of the licensing authority and details of how further information about the decision can be obtained from the authority;
 - 6) the date on which the decision was made and (if different) the date on which it takes effect;
 - 7) the date on which any subsequent change to the decision was made and (if different) the date on which it takes effect;
 - 8) if the decision is to suspend the person's driver's licence for a period, the date on which the suspension is to end;
 - 9) any other information that the Secretary of State prescribes by regulations.

Appeals by Individuals who object to their information being added to the register

- 3.7 Where an appeal to the Magistrates' Court is made by an individual who objects to their information being added to the NR3S register, the appeal needs to be made within 28 days of receiving notification of the council's intention to add details to NR3S register.
- 3.8 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 longer than 35 days until that appeal is determined or abandoned.
- 3.9 Where the appeal is determined by the Magistrates' Court or the Crown Court, it is possible to appeal the decision by way of case stated. 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.

- 3.10 The data will be held securely in accordance with the 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.

When a request for further information is received from another authority

- 3.11 The 2022 Act says that the person running the Register must make sure that the information in the Register is disclosed only for:
- 1) the safeguarding of passengers; and
 - 2) road safety.
- 3.12 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 11 years.
- 3.13 The council will then determine how to respond to the request. The council will not simply provide information as an automatic response to every request. Any disclosure must be considered and proportionate, taking into account the data subject's rights and the position and responsibilities of a taxi driver. Each application will be considered on its own merits.
- 3.14 The council will also conduct a Data Protection Impact Assessment. This will consider how the requesting 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 requesting authority has adopted a procedure similar to this, that should be a reasonably straightforward process.
- 3.15 Where the reason for refusal to grant, suspension or revocation relates to a conviction which is within the timescales determined in the [Council's Convictions Policy](#) the information will be disclosed. Where the reason for refusal to grant, suspension or revocation relates to a conviction which is outside the timescales determined in the Convictions Policy, the information will not usually 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 procedure.
- 3.16 Any information about convictions will be shared in accordance with schedule 1, part 2, paragraphs 11 and 12 of the Data Protection Act (DPA) 2018; that is:
- i) Protecting the public against dishonesty etc.
 - (1) This condition is met if the processing—
 - (a) is necessary for the exercise of a protective function,
 - (b) must be carried out without the consent of the data subject so as not to prejudice the exercise of that function, and
 - (c) is necessary for reasons of substantial public interest.
 - (2) In this paragraph, "protective function" means a function which is intended to protect members of the public against—

- (a) dishonesty, malpractice or other seriously improper conduct,
 - (b) unfitness or incompetence,
 - (c) mismanagement in the administration of a body or association, or
 - (d) failures in services provided by a body or association.
 - ii) Regulatory requirements relating to unlawful acts and dishonesty etc.
 - (1) This condition is met if—
 - (a) the processing is necessary for the purposes of complying with, or assisting other persons to comply with, a regulatory requirement which involves a person taking steps to establish whether another person has—
 - (i) committed an unlawful act, or
 - (ii) been involved in dishonesty, malpractice or other seriously improper conduct,
 - (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing, and
 - (c) the processing is necessary for reasons of substantial public interest.
 - (2) In this paragraph “act” includes a failure to act; “regulatory requirement” means—
 - (a) a requirement imposed by legislation or by a person in exercise of a function conferred by legislation, or
 - (b) a requirement forming part of generally accepted principles of good practice relating to a type of body or an activity.
- 3.17 The officer will record what action was taken and why. A written record of every decision that is made, as a result of a request from another authority will be retained and will detail:
- 1) the date the request was received;
 - 2) how the data protection impact assessment was conducted and its conclusions;
 - 3) the name or names searched;
 - 4) whether any information was provided;
 - 5) if information was provided, why it was provided (and details of any further advice obtained before the decision was made);
 - 6) if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made);
 - 7) how and when the decision (and any information) was communicated to the requesting authority.
- 3.18 This record will not be combined with any other records and will be retained for the retention period of 11 years.

4 Equalities Impact Assessment

- 4.1 The Council is required to act in accordance with the Act and the [Guidance for Users of the National Register of Taxi Licence Refusals, Revocations, and Suspensions \(NR3S\)](#)

5 Strategic Risk Management Issues

- 5.1 The Act contains provisions that require licensing authorities to record information relating to drivers' licensing histories (refusals, revocations or suspensions) on a National Register. Before the licensing authority can decide whether to grant or renew a driver licence, it must search the Register for any entry relating to the applicant.
- 5.2 Failure to do so could put customers at risk and the Council would be in breach of its statutory duties.

Background Papers

None

Contact for further information

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