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Members of the Licensing Committee
(Councillors R Lillis (Chairman), D Westcott (Vice-Chair), I Aldridge,
S Goss, I Jones, A Kingston-James, J Parbrook, R Thomas, N Thwaites,
K Turner and T Venner)



Contact Clare Rendell
Extension c.rendell@tauntondeane.gov.uk or 01984 600161
Date 19 November 2018

**THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THE MEETING
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OR IN OTHER LANGUAGES ON REQUEST**

Dear Councillor

I hereby give you notice to attend the following meeting:

LICENSING COMMITTEE

Date: Tuesday 27 November 2018
Time: 3.30 pm
Venue: Council Chamber - West Somerset House

Please note that this meeting may be recorded. At the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during the recording will be retained in accordance with the Council's policy.

Therefore unless you advise otherwise, by entering the Council Chamber and speaking during Public Participation you are consenting to being recorded and to the possible use of the sound recording for access via the website or for training purposes. If you have any queries regarding this please contact the officer as detailed above.

Yours sincerely

A handwritten signature in black ink, appearing to read "Bruce Lang".

BRUCE LANG
Proper Officer

WEST SOMERSET DISTRICT COUNCIL

Meeting to be held on Tuesday 27 November 2018 at 3.30 pm

Council Chamber - West Somerset House

AGENDA

1. **Apologies.**

2. **Minutes of the previous meeting of the Licensing Committee.** (Pages 5 - 8)

3. **Declarations of Interest.**

To receive and record declarations of interest in respect of any matters included on the agenda for consideration at this meeting.

4. **Public Participation.**

The Chairman to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three-minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

5. **Licensing Update Report.** (Pages 9 - 18)

To consider Report No. WSC 82/18. To be presented by John Rendell, Licensing Manager – SEE ATTACHED.

The purpose of the report is to provide an update on the activities of the Council's licensing service, changes to legislation, current consultations and other general licensing matters.

6. **Adoption of a new policy concerning use of the National Register of Taxi Licence Revocations and Refusals.** (Pages 19 - 36)

To consider Report No. WSC 83/18. To be presented by John Rendell, Licensing Manager – SEE ATTACHED.

The purpose of the report is to consider the licensing requirements for hackney carriage and private hire drivers and the recommendations set out within the report with regard to the adoption of a new policy which will enable the council to use the National Register of Taxi Licence Revocations and Refusals, also known as 'NR3'.

7. **Zero Emissions Licences.**

Councillor Parbrook has requested a discussion on Zero Emissions Licences.

COUNCILLORS ARE REMINDED TO CHECK THEIR POST TRAYS

Agenda Item 2

LICENSING COMMITTEE

Minutes of the Meeting held on 4 July 2018 at 4.30pm

In The Council Chamber, West Somerset House, Williton

Present:

Councillor R Lillis Chairman
Councillor D Westcott Vice-Chairman

Councillor I Aldridge
Councillor S Goss
Councillor A Kingston-James
Councillor R Thomas

Councillor K Turner
Councillor N Thwaites
Councillor T Venner

Members in Attendance:

Councillor H Davies

Officers in Attendance:

Licensing Manager (J Rendell)
Licensing Officer (A Evens)
Democratic Services Officer (C Rendell)

LEP1 Apologies for Absence

Apologies were received from Councillors I Jones and J Parbrook.

LEP2 Minutes of the meeting held on 14 March 2018

(Minutes of the Meeting of the Licensing Committee held on 14 March 2018 – circulated with the Agenda.)

RESOLVED that the Minutes of the Licensing Committee held on 14 March 2018 be noted.

LEP3 Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

Name	Minute No.	Member of	Action Taken
Councillor I Aldridge	All	Williton Parish Council	Spoke and voted
Councillor S Goss	All	Stogursey Parish Council	Spoke and voted
Councillor A Kingston-James	All	Minehead Town Council	Spoke and voted
Councillor R Thomas	All	Minehead Town Council	Spoke and voted
Councillor K Turner	All	Brompton Ralph Parish Council	Spoke and voted
Councillor T Venner	All	Minehead Town Council	Spoke and voted

Councillor D Westcott	All	Watchet Town Council	Spoke and voted
Councillor H Davies	All	Somerset County Council	Spoke

LEP4 Public Participation

No members of the public had requested to speak on any item on the agenda.

LEP5 Licensing Update Report

The purpose of the report was to keep the Council's statutory Committee up to date on the activities of the Council's Licensing Service, changes to legislation, current consultations and other general licensing matters.

A summary of the activity and performance of the Licensing Service since the last meeting of the Committee was as follows:-

The performance of the Licensing Service was measured against the number of applications that were completed within 14 days of them being determined. Between 1 January and 31 March 2018, 97.2% of applications had been completed within the 14 day timescale.

Members were provided with a comparison of the numbers of applications received for each of the regimes administered by the Licensing Team between January and March 2018 and the numbers of licences in force and notices given as at 21 June 2018.

The Licensing Manager advised the Committee on the sad news that Leigh-ann Fumagalli was due to leave the department as she had been seconded to another job within the Council. She would be sadly missed and he was in the process of holding discussions with HR to recruit a replacement so there would be a limited impact on the service delivery.

The Institute of Licensing had published a guide on determining the suitability of applicants and licensees in the taxi and private hire trade. The aim of the guide was to try to achieve a level of consistency across local authorities. The guide would assist officers in developing a single taxi licensing policy across Taunton Deane and West Somerset, in readiness for the formation of the New Council.

Section 182 of the Licensing Act 2003 required the Secretary of State to issue guidance to licensing authorities in regard to how to discharge their functions. The Home Office had the responsibility and in April 2018, it had published a revised document. Sections in relation to cumulative impact assessments and hearings, amongst others, had been updated.

During the discussion the following points were raised:-

- Concern was raised on the staffing levels and whether there would be cover provided in the Williton office.
The same amount of cover should be provided. If staff were not in the office, they could always be contacted via the telephone or email and they worked within the core hours. The Licensing Team were able to answer queries for both Councils and customers had been encouraged to book an appointment prior to visiting the offices. The team had adopted an agile way of working.

- Clarification was requested on the Shadow Council arrangements, the Transformation Project and the new structure.
Information was given on the recruitment process, the new structure, how staff would work in the future and the meetings that had been set up for the Shadow Authority.
- Members highlighted that there was a lot of work to be carried out prior to the formation of the New Council to align all of the policies used by the Licensing Team.
The Licensing Team would check and challenge all the policies used across both Councils. The gambling and licensing act policies would be worked on over the next couple of months and then work would be carried out on the taxi policies.
- Members suggested instead of the retention of district areas, the taxi trade could use urban and rural areas instead. Technology could be introduced that could identify what roads were being driven on and alter the tariffs accordingly.
The taxi drivers would need to be consulted on what proposals could be made on areas and tariffs. Taunton Deane had a Taxi Forum and the Licensing Manager hoped to introduce a similar forum within West Somerset. Zones might not prove to be practical and the Council wanted to encourage growth and new businesses.
- Members requested an update on the Hinkley Point Accommodation item that had been discussed at the Licensing Committee held on 28 November 2017.
An update would be circulated to the Committee Members.
- Members praised the team for all their hard work.

RESOLVED that Committee:-

- a. Noted the update report; and
- b. Approved the creation of a Joint Licensing Committee to meet when required to sign off revised policies for the New Council.

(The meeting closed at 6.10pm.)

West Somerset Council

Licensing Committee – 27 November 2018

Licensing Update report

This matter is the responsibility of Cabinet Member Keith Turner

Report Author : John Rendell, Licensing Manager

1 Executive Summary

1.1 This report provides an update on the activities of the council’s licensing service, changes to legislation, current consultations and other general licensing matters.

2 Recommendations

2.1 That the report be noted.

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
If the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council’s Corporate Strategy.	4	4	16
Demonstrating good governance of the licensing function through presentation of current arrangements and statistics relating to the licensing service.	3	4	12

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

Performance of the service

- 4.1 The performance of the licensing service is measured against the number of applications that are completed within 14 days of them having been determined i.e. decision as to whether to grant the licence or not, has been reached. The target for the service is that, for all applications that are completed within a set quarter, 90% must be completed within 14 days of them being determined.
- 4.2 98.5% (200 out of 203) of all applications completed between the 1st of July and 30th of September 2018 were completed within the 14 day timescale. This is an increase of 1.3% from the previous quarter.

Applications received and licences in force

- 4.3 The numbers of applications received for each of the regimes administered by the licensing service, between July and September 2018, are shown in comparison with

those received for the period in the preceding two years at **Appendix A**. The numbers of licences in force and notices given as of the 16th November 2018 are shown at **Appendix B**.

Changes to animal licensing

- 4.4 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into effect as of the 1st October. The Regulations repealed a number of Acts responsible for regulating animal boarders, riding establishments (now referred to as 'hiring of horses'), pet shops, and dog breeders.
- 4.5 Amongst some of the changes, a new licensable activity has been created; 'the keeping or training of animals for exhibition'. The following activities would typically be included within the definition for this activity:
- Mobile animal exhibits which visit schools, weddings, private parties, fairs etc.;
 - Animals kept for use in films, TV and other media;
 - Domestic animals used in circuses.
- 4.6 Animals kept and used by the police and military or in sport and wild animals used in travelling circuses are excluded from the above.
- 4.7 Licensed premises now receive a star rating (out of 5) once they have been inspected, which represents their ability to comply with certain standards which are set out in the regulations. These relate to areas such as the cleanliness of the premises, level of supervision and enrichment the animals receive and standard of the environment the animals are kept in and controls in place to prevent the spread of infectious disease. There are minimum standards which must be met in order for a licence to be granted and higher standards which, if achieved, allows for a 4 or 5 star rating. Besides from the obvious kudos and commercial advantage a business owner will have from achieving a 4 or 5 star rating, they will also qualify for a longer licence (e.g. two or three years as opposed to a one-year licence), which effectively means they pay less in licence fees.
- 4.8 Zoo and dangerous wild animal licensing will continue to be controlled by the licensing authority but under existing legislation.
- 4.9 The team is experiencing an increase in the volume of enquiries related to animal licensing as a result of the changes, most of which are made by telephone. With rules governing dog breeding having been tightened as a result of national concerns regarding puppy farming, there are now more dog breeders in scope. A large proportion of contact is either from breeders looking to clarify if they need a licence or members of the public wanting to report people who they believe are breeding without a licence.
- 4.10 Officers have begun carrying out the first few inspections. Given that, within the regulations there are a greater number of and more stringent licence conditions that applicants are required to comply with, inspections are now double the length in time than before. Due to restrictions under the previous legislation, the majority of licences have been fixed to calendar years, meaning there has in the past been difficulty completing inspections prior to Christmas, as and when renewal applications have been received. Given that inspections are taking longer to complete and in order to avoid difficulties which might be to the detriment of businesses, the Licensing Manager has

agreed to extend any licences due to expire in December and January for an extra two months, at no extra cost.

Delay in reviewing licensing policies

- 4.11 The review of the statements of licensing policy for both the gambling and alcohol, entertainment and late night refreshment licensing regimes has been delayed, owing to predominantly to an increase in work pressures due to the organisational restructure and the complication of the formation of a new council.
- 4.12 It had been mentioned in the update report presented to the committee in March that the intention was to write a joint policy for both Taunton Deane and West Somerset. Given the new council will be formed in April next year, the Licensing Manager believes it would better to concentrate efforts on writing the policy for the new council, which then means a more straight forward democratic route.

5 Links to Corporate Aims / Priorities

- 5.1 The licensing service is committed to helping businesses and individuals to comply with all relevant legislation, in order to support new and existing businesses and enable cultural and leisure activities, thereby supporting the Council's growth agenda.

6 Finance / Resource Implications

- 6.1 Where legislation allows for cost recovery, licence fees are levied against the administration of the regime and the supervision of licences issued. It would be unlawful to deliberately set the fees to make a profit and any over (or under) recovery is redressed in future fee levels.

7 Legal Implications

- 7.1 No legal implications identified.

8 Environmental Impact Implications (if any)

- 8.1 There are no specific environmental impact implications identified as a result of this report.

9 Safeguarding and/or Community Safety Implications

- 9.1 The four licensing objectives under the Licensing Act 2003 are:
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm

With the addition of securing the welfare of animals, these are the main aims of the Licensing Service. The continued work of the service to achieve and promote these aims, further supports the role of the Council in ensuring community safety.

10 Equality and Diversity Implications

10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2 No equality and diversity implications were identified.

11 Social Value Implications

11.1 As this report does not relate to the procurement of any services or products, no social value implications were identified.

12 Partnership Implications

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications

13.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

14 Asset Management Implications

14.1 No asset management implications were identified.

15 Consultation Implications

15.1 No consultation implications were identified.

16 Scrutiny Comments

16.1 There are no scrutiny comments or recommendations.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency : **Once only** **Ad-hoc** **Quarterly**

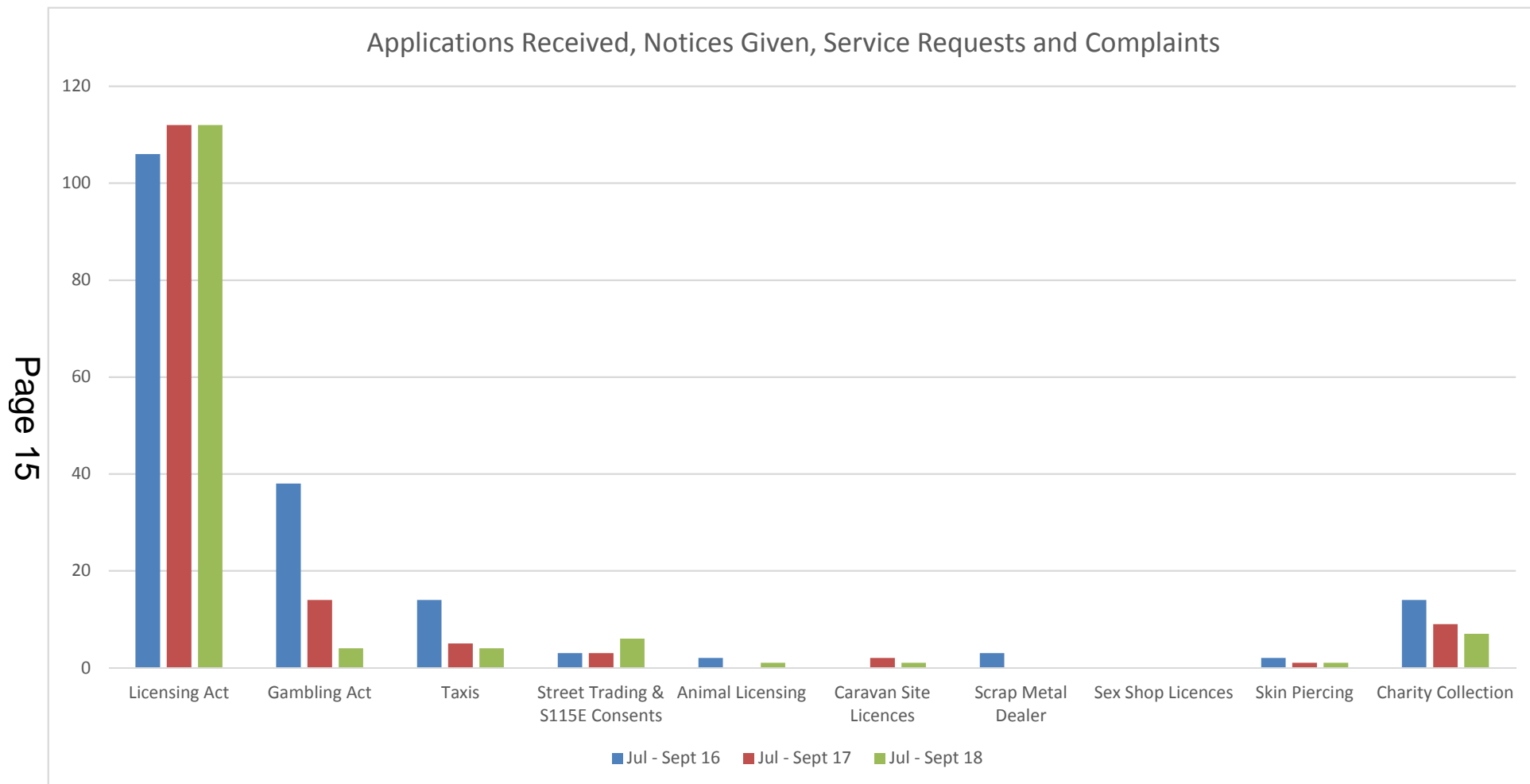
Twice-yearly **Annually**

List of Appendices

Appendix A	Applications received, notices given, service requests and complaints
Appendix B	Licences issued and notices given

Contact Officers

Name	John Rendell
Direct Dial	01823 219491
Email	j.rendell@tauntondeane.gov.uk



Licences Issued and Notices Given

These figures show the number of licences in force at the 16th November 2018 and the number of notices given since commencement of the relevant legislation

	Total	Difference since last update +/-
Licensing Act 2003 Premises Licences	284	6
Licensing Act 2003 Club Premises Certificates	21	0
Licensing Act 2003 Personal Licences	888	18
Licensing Act 2003 Temporary Event Notices	3016	130
Gambling Act 2005 Club Machine Permit	8	0
Gambling Act 2005 Club Gaming Permit	0	0
Gambling Act 2005 Licensed Premises Gaming Machine Permits	4	0
Gambling Act 2005 Occasional Use Notices	30	1
Gambling Act 2005 Premises Licences	12	0
Gambling Act 2005 Prize Gaming Permits	1	0
Gambling Act 2005 Society Lotteries	44	10
Gambling Act 2005 Temporary Use Notices	0	0
Gambling Act 2005 Unlicensed Family Entertainment Centres	11	0
Gambling Act 2005 Notification of 2 or less Gaming Machines	33	1
Hackney Carriages	43	7
Private Hire Vehicles	28	12
Hackney Carriage & Private Hire Drivers	64	3
Private Hire Operators	21	8
Street Trading Consents	13	8
Zoo Licences	2	0
Pet Shop Licences	1	0
Dog Breeding Licence	1	0
Animal Boarding Licence	12	1
Riding Establishment Licences	9	2
Dangerous Wild Animal Licences	0	0
Caravan Site Licences	34	1
Scrap Metal Dealer licence	2	0
Sex Shop Licences	0	0
Skin Piercing Registrations	24	10
Street Collection Permits	518	11
House to House Collection Permit	373	4

Report Number: WSC 83/18

West Somerset Council

Licensing Committee – 27 November 2018

Adoption of a new policy concerning use of the National Register of Taxi Licence Revocations & Refusals

This matter is the responsibility of Cabinet Member Keith Turner

Report Author: John Rendell, Licensing Manager

1 Executive Summary

- 1.1 Members are asked to consider the licensing requirements for hackney carriage and private hire drivers and the recommendations set out at section 2 of the report with regard to the adoption of a new policy which will enable the council to use the National Register of Taxi Licence Revocations & Refusals, also known as 'NR3'.

2 Recommendations

- 2.1 That members approve the adoption of the policy attached at **Appendix 1** which can then be incorporated into the 'Hackney Carriage/Private Hire Regulations'; more commonly referred to as the 'Taxi Handbook'.

3 Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
Were this authority not to adopt the proposed policy and use NR3, this authority may license individuals as hackney carriage/private hire vehicle drivers who are unsuitable by virtue of, fully or in part, them having been revoked or refused licences by other licensing authorities. This would be because an individual or individuals have failed to disclose information about having had licences revoked/refused and there being no other means to check this aspect of their history except for NR3.	4	4	16

Similarly to above; were this authority not to use NR3, another licensing authority may inadvertently license an individual as a hackney carriage/private hire vehicle driver despite them not being suitable, by virtue of them not being able to access relevant and important information on that individual which this authority holds but is not identified on NR3.	4	4	16
Increase cost to those applying for hackney carriage/private hire driver licences as a result of the licensing authority carrying out additional checks.	5	1	5

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
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	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
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Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

4.1 Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states

that a district council shall not grant a licence to drive private hire vehicles unless they are satisfied that the applicant is a fit and proper person. Section 59 of the same Act requires that district councils make the same consideration when deciding whether to grant a licence to act as the driver of a hackney carriage. The term 'fit and proper' is not further defined in the legislation, nor are there any statutory requirements or tests that a local authority must apply, other than that the applicant must have held a DVLA issued driving licence for a period of not less than a year, prior to making an application.

- 4.2 The council currently issues dual licences; to allow individuals to drive both hackney carriages and private hire vehicles, and has a multi-faceted approach to determining the fitness and propriety of an applicant. This licence will herein be referred to as a 'taxi driver licence' for the sake of brevity. As part of the application process for this licence, the applicant is required to complete an application to the Disclosure and Barring Service (DBS – formerly CRB), for which they receive a certificate with details of their criminal history, including any convictions (whether spent or unspent), cautions and any non-conviction information that the Chief Officer of Police sees fit to disclose. This certificate is submitted to the council and is considered alongside other information, such as a medical certificate and the applicant's ability to complete the 'knowledge and suitability interview'.
- 4.3 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 gives a district council the power to suspend, revoke or refuse to renew a drivers licence, on the following grounds:
- The holder has been convicted of an offence involving dishonesty, indecency or violence;
 - The holder has been convicted of an offence under or has failed to comply with the provisions of, the Town Police Clauses Act of 1847 or of Part II of the Act of 1976
 - The holder has, since the grant of the licence, been convicted of an immigration offence or required to pay an immigration penalty (excluding convictions which are 'spent' within the meaning of the Rehabilitation of Offenders Act 1974 or, where a penalty is imposed, that more than three years have elapsed since the date on which the penalty was imposed and the amount of the penalty has been paid in full);
 - Any other reasonable cause.
- 4.4 Suspending, revoking or refusing to renew a licence is facilitated by the district council serving the holder of the licence a notice to that effect. The holder of the licence has the right to appeal such a notice to a magistrates' court.
- 4.5 As highlighted at paragraph 4.2, the legislation which regulates taxi drivers identifies certain offences, for which an individual can be prosecuted, if found guilty. Such convictions will, like any other, appear on an individual's 'criminal record' and therefore an enhanced DBS certificate. As the suspension, revocation and refusal to renew a taxi drivers licence is not a conviction; instead

being an administrative decision; the matter will not appear on a DBS certificate.

- 4.6 Given that there is nothing stopping an individual, who has had a licence revoked or refused, from re-applying for a taxi drivers licence; be that to the same district council that or a different district council; it is important that the district council receiving the application knows if that individual has had a licence revoked or refused, as this may indicate they are not 'fit and proper'. As this information does not appear on the DBS certificate, this authority, and many others, has relied on asking the individual/applicant to self-declare if they had a licence revoked or refused and if so, identify which district council did so. The idea being that this authority would then contact the district council that made the decision to find out why it was made, in order for that information to be considered when the application is determined. Of course, this system has always relied upon the honesty of the individual making the application and were they not to declare having had a licence revoked, it is extremely unlikely that this authority (and others) would know. This has always been an area of concern for Licensing Officers nationally.
- 4.7 This authority has most recently revoked a licence from/an individual due to allegations of inappropriate behaviour and sexual advances towards customers (although no actual charges were brought about by the Police). Since the individual was not convicted, they could apply to other councils for a licence and those councils would potentially not be aware of the events which led to the revocation.

National Register of Taxi Licence Revocations & Refusals or 'NR3'

- 4.8 In June 2017, the Local Government Association commissioned the National Anti-Fraud Network (NAFN); who are a local authority owned, not for profit organisation specialising in data and intelligence services; to develop and host a national register of individuals who have had their taxi driver licences revoked. The result was the National Register of Taxi Licence Revocations & Refusals or 'NR3'.
- 4.9 NR3 was launched in July this year. It was built with 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 are 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 renewal of one, 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.
- 4.10 Details contained on the register are limited to information that will help to identify an individual to a certain degree of accuracy, including name, address and national insurance number, but will not give a reason or explanation of why an action was taken. It is up to individual authorities to follow up on any potential matches with the appropriate licensing authority, whose contact details will be included in the search result.
- 4.11 There is currently no legal requirement for local authorities to use NR3, however

this will change if the Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill 2017-19, which is currently at the second reading stage in the House of Commons, receives Royal Assent. Although not a legal requirement, I believe it would be negligent for the council not to use NR3 and would put this authority at high risk of a major incident, as identified in the 'Risk Matrix' at section 3 of this report.

- 4.12 The report author has already taken steps to register with the NAFN as a single point of contact (SPOC); a process which involved completed data processing and sharing agreements on behalf of this authority. Further work is required before we can use NR3 in full, as described in the proceeding paragraphs.
- 4.13 An initial check of this authorities licensing records has been carried out and there is 1 recorded revocation that this authority would be seeking to record on NR3.

Complying with the General Data Protection Regulations (GDPR)

- 4.14 The sharing between licensing authorities of more detailed data, following an initial search on NR3, may often involve the processing of what is defined in GDPR as 'special category personal data'. Use of this type of data is not included within the data processing and data sharing agreements governing use of the register itself (referred to in paragraph 4.11). 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. Having such a policy is a requirement of data protection law, Article 8 of the European Convention on Human Rights and of public law.
- 4.15 The LGA and NAFN has published guidance in respect of NR3 which includes a template policy for this very purpose. The adoption of this policy is what members are being asked to consider, as per paragraph 2.1 of this report. The template has been adapted so that it refers specifically to West Somerset Council and is attached at **Appendix 1**. Amendments to the template policy have been highlighted in yellow. Adoption of this policy is necessary before any further progress can be made.
- 4.16 Should the policy at **Appendix 1** be adopted, this authority would need to, before it can contribute to NR3, notify the individual referred to at paragraph 4.7 of its intention to submit their details NR3. This would be in accordance with GDPR. The LGA and NAFN have produced a template letter which officers would use; this is attached at **Appendix 2**. Essentially, the letter explains that the authority will be using NR3 and what rights they (the individual) have in accordance with GDPR, which includes the right to request the erasure of their data. It is hard to envisage circumstances in which erasure would, in the case of NR3, be warranted but were this authority to receive any such requests, each would be considered on its own individual merits.

5 Links to Corporate Aims / Priorities

- 5.1 One of the councils core roles is 'public safety'. Ensuring that those licensed to drive hackney carriage and private hire vehicles are fit and proper to do so is key to protecting the travelling public. Adoption of the policy, as per the report author's recommendation, and use of NR3 will not only help this council's officers make better informed decisions about prospective and licensed taxi drivers, but do the same for other councils too.

6 Finance / Resource Implications

- 6.1 The carrying out of a searches on NR3 and contacting of local authorities where further information is required, will increase the overall time it takes officers to process applications for the grant and renewal of taxi driver licences, at further cost to this authority.
- 6.2 Within section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976, it states: "Notwithstanding the provisions of the Act of 1847, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so."
- 6.3 The increase in time spent on driver licence applications will have no significant impact on the bottom line of the licensing budget as the additional staff time will be compensated for in a future increase in fees. As a set of proposed fees for 2019/20 has been already been submitted for consideration by full council, the additional staff time would not be accounted for until fee setting for 2020/21.
- 6.4 Until officers are routinely carrying out searches of NR3, the exact increase to licence fees cannot be known. However, based on current bases costs and an estimate of a search taking up 5 minutes of Licensing Officer time per application, the cost would be £4.62.
- 6.5 Section 70(1) of the Local Government (Miscellaneous Provisions) Act 1976 allows a council to include within its fees 'any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.' This essentially refers to costs which are incurred other than those associated with processing applications. This principal does not apply to taxi driver licences and therefore, the council would not be able to recover costs which are incurred as a result of processing requests from other local authorities for further information (themselves having identified an individual who has had a licence revoked or refused by Taunton Deane Borough Council). This will have a negative impact on the bottom line of the licensing budget but until requests like this are processed, it is difficult to understand that true impact although it is anticipated that requests would be rare.

7 Legal Implications

- 7.1 As explained earlier in this report, adopting such a policy is necessary in order

for this authority to use NR3 in accordance with data protection law, Article 8 of the European Convention on Human Rights and public law.

8 Environmental Impact Implications

8.1 No environmental impact implications were identified.

9 Safeguarding and/or Community Safety Implications

9.1 Adopting the proposal can only serve to further promote community safety, by making vital information available to officers when considering the fitness and propriety of taxi drivers.

10 Equality and Diversity Implications

10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance quality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant characteristic and persons who do not share it.

10.2 No equality and diversity implications have been identified within this report.

11 Social Value Implications

11.1 No social value implications were identified.

12 Partnership Implications

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications

13.1 Through effective regulation, confidence in licensed taxi drivers and their activities can be maintained, helping communities to thrive.

14 Asset Management Implications

14.1 No asset management implications were identified.

15 Consultation Implications

15.1 There has been no consultation with the holders of hackney carriage/private hire drivers licences. Any individuals whose details will be submitted to the register will be notified and made aware that of their various rights in accordance with GDPR.

16 Scrutiny Comments / Recommendation(s)

16.1 None

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency: **Once only** **Ad-hoc** **quarterly**
 Twice-yearly **annually**

List of Appendices

Appendix 1	Policy on use of NR3
Appendix 2	Template letter

Policy for **West Somerset Council 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 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.

This authority 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.

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 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 application.

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 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 .

The data will be held securely in accordance with this authority's general policy on the secure retention of personal data, which is available at <https://www.westsomersetonline.gov.uk/Council---Democracy/Access-to-Information/Data-Protection/Privacy-Notice>. 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, [which is available via the same web address mentioned above](#).

II. Making a request for further information regarding an entry on NR3

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

This authority 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 this authority 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 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 this authority receives a request for further information from another authority, a clear written, [electronic](#) 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 years .

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

If this authority 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 disclosed. This will be determined by an officer who has been trained to discharge this function.

If this authority is not satisfied that the other authority's data protection policy is satisfactory, no disclosure can be made.

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

This authority 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'. 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 will make and then retain a clear written, **electronic** 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 this authority 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.

This authority will make and then retain a clear written, **electronic** 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 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).

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:	<input type="checkbox"/> Refusal <input type="checkbox"/> Revocation
Other details for this record:	
Address:	
Driving licence number:	
NI number:	

Reference number:	
<p>Declaration by requesting authority:</p> <p><i>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.</i></p> <p><i>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.</i></p> <p><i>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 included within the council's Hackney Carriage/Private Hire Regulations; the authority's policy document; which is included with this request.</i></p>	
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:	
<p>Declaration by providing authority:</p> <p>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</p>	

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:

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 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 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.

