

You are requested to attend a meeting of the Licensing Committee to be held in Activity Room - Brittons Ash Community Centre on 21 November 2018 at 6.15 pm.

Agenda

- 1 Apologies.
- 2 Minutes of the previous meeting of the Licensing Committee. (Pages 5 - 8)
- 3 Public Question Time.
- 4 Declaration of Interests.

To receive declarations of Disclosable Pecuniary Interests or personal or prejudicial interests, in accordance with the Code of Conduct, in relation to items on the agenda. Such interests need to be declared even if they have already been recorded in the Register of Interests. The personal interests of Councillors who are County Councillors or Town or Parish Councillors will automatically be recorded in the minutes.
- 5 Licensing Update Report. Report of the Licensing Manager (attached). (Pages 9 - 20)
- 6 Proposed changes to the Hackney Carriage and Private Hire Vehicle Driver Licensing Regime. Report of the Licensing Officer (attached). (Pages 21 - 38)
- 7 Adoption of a new policy concerning use of the National Register of Taxi Licence Revocations and Refusals. Report of the Licensing Manager (attached). (Pages 39 - 56)
- 8 Discussion on Vaping in Licensed Premises. Requested by the Vice-Chair of the Committee.

Bruce Lang
Assistant Chief Executive

13 November 2018

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under "Public Question Time" is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

Except at meetings of Full Council, where public participation will be restricted to Public Question Time only, if a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council's Planning Committee and details of the "rules" which apply at these meetings can be found in the leaflet "Having Your Say on Planning Applications". A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: www.tauntondeane.gov.uk



The meeting rooms at both Brittons Ash Community Centre and West Monkton Primary School are on the ground floor and are fully accessible. Toilet facilities, with wheelchair access, are available.

Lift access to the Council Chamber on the first floor of Shire Hall, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are available through the door to the right hand side of the dais.



An induction loop operates at Shire Hall to enhance sound for anyone wearing a hearing aid or using a transmitter.

For further information about the meeting, please contact the Democratic Services on 01823 219736 or email democraticservices@tauntondeane.gov.uk

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Licensing Committee Members:

Councillor K Durdan (Chairman)

Councillor G James (Vice-Chair)

Councillor J Blatchford

Councillor W Brown

Councillor T Davies

Councillor M Floyd

Councillor J Gage

Councillor A Gunner

Councillor T Hall

Councillor M Hill

Councillor J Hunt

Councillor S Lees

Councillor I Morrell

Councillor S Nicholls

Licensing Committee – 6 June 2018

Present: Councillor Miss Durdan (Chairman)
Councillors Blatchford, Davies, Hill, Hunt, James, Morrell and Nicholls.

Officers: John Rendell (Licensing Manager), Leigh-ann Fumagalli (Licensing Officer),
Fern Avis (Licensing Officer) and Clare Rendell (Democratic Services Officer).

Other: Councillor Berry.

(The meeting commenced at 6.15 pm)

1. Appointment of Chair

Resolved that Councillor Miss Durdan be appointed Chairman of the Licensing Committee for the remainder of the Municipal Year.

2. Appointment of Vice-Chair

Resolved that Councillor James be appointed Vice-Chairman of the Licensing Committee for the remainder of the Municipal Year.

3. Apologies

An apology was received from Councillor Mrs Lees.

4. Minutes

The minutes of the meeting of the Licensing Committee held on 22 February 2018 were taken as read and were signed.

5. Licensing Service Update Report

Considered report previously circulated, which provided an update 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 set out:-

- The performance of the Licensing Service was measured against the number of applications that were completed within 14 days of them being determined. The target was 95%.
- This target had been reached between 1 January and 31 March 2018.
- Members were provided with a comparison of the number of applications received between January and March 2018 for the preceding two years and a summary of the numbers of the licences in force and notices given as at 24 May 2018.
- The numbers of service requests received by the service between January and March 2018, compared with the previous two years were also reported.
- 38 service requests had been received and there were 8 service requests where enquiries were ongoing or a conclusion had not been reached.

The Marketing and Place Manager provided an update in respect of markets and street traders within the town centre.

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.

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.

There were several projects that the team were working on which involved taxi tests that were due to be introduced or were being developed. The following were included:-

- Knowledge Test – this was due to be introduced and included safeguarding information. There were a couple of volunteers from the Taxi Forum who would carry out the test and feed back to the team;
- Medical Test – a review of the policy was being carried out and the proposal was to change it from an age related test;
- Practical Driving Test – this was due to be introduced to Taunton Deane Borough Council, who were the only Council within Somerset that did not carry out a practical test; and
- Fit and Proper Person Test – this policy was due to be formally adopted by the team.

During the discussion of this item, the following points were raised:-

- Members queried what the rules were on vaping in taxi vehicles.
The department did not have an official stance on vaping, but the Manager was open to the introduction of regulations to prevent vaping in taxi vehicles.
- Members queried what preparations were being made for the creation of the new Licensing Committee which would be part of the New Council in 2019.
Work had already started on the joint regulations for Licensing and would be brought into force when the new committee was formed.
- Concern was raised on the taxi trade and whether there would be an impact when the two district areas joined together.
It was unlikely that the New Council would keep two trading areas for the taxis to operate in because it would not be practical or in the public interest to administer two areas.
- Members requested clarification on what options were available to the team to take when a taxi driver had acquired penalty points on their licence.
There had been a Sub-Committee, which had faced difficulty in their decision on what action to take with a driver who had several points on his licence, which had prompted work to investigate what options were available to take. Originally the driver was instructed to participate in a driving course which was operated by the Police. However, this proved tricky to administer because they did not offer such courses for individuals. So the Manager had decided to request the driver to undertake a practical driving test which was able to instruct the driver on a wider level. This would be an additional option available for the team to use for future cases.

- Concern was raised on the loss of a member of the team and the impact that would have on service delivery.
The Manager assured the Committee that there were funds within the budget to recruit another member of staff.
- Members queried the cost of mobile trading and the size specification allowed in the town centre. There had been a double decker bus parked up in the High Street and there was concern over what fees it would have paid compared to other smaller traders.
The bus was for a company that wanted to test the market interest in Taunton before taking up a shop in the town. It was trading within promotional space which paid a higher fee than the normal trading areas. The Marketing and Place Manager was in negotiations with Somerset County Council to make the promotional space bigger.
- Members suggested that the wording in the guidance notes needed to be checked thoroughly before the document was published.
- Members queried whether the fees charged within Taunton Deane and West Somerset were different.
Yes they were, but the fees would be revised during the work to create a joint committee.
- Concern was raised on the loss of events in the town due to the fees charged for the use of open spaces.
The Marketing and Place Manager would check with the Open Spaces Team to find out if fees could be lowered for non-profit companies. There was already discretion allowed for charity events.
- Members requested a full update on street trading to be brought to the next committee scheduled for 22 August 2018.
- Concern was raised on the reduction in staff within the Licensing and Environmental Health Department and Members requested that a message was sent to the Senior Management Team and the Executive to express their concern on the impact to service delivery and that they wanted reassurance that the Transformation Project would not cause any further detriment to the frontline service.
The Portfolio Holder for Environmental Services and Climate Change agreed to take the message to the rest of the Executive and Senior Managers.

Resolved that the report be noted.

(The meeting ended at 7.15pm)

Taunton Deane Borough Council

Licensing Committee – 21 November 2018

Licensing Update report

This matter is the responsibility of Executive Councillor Patrick Berry

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, 95% must be completed within 14 days of them being determined.
- 4.2 98.4% (312 out of 317) of all applications completed between the 1st of July and 30th of September 2018 were completed within the 14 day timescale. This is a decrease of 0.9% from the previous quarter.

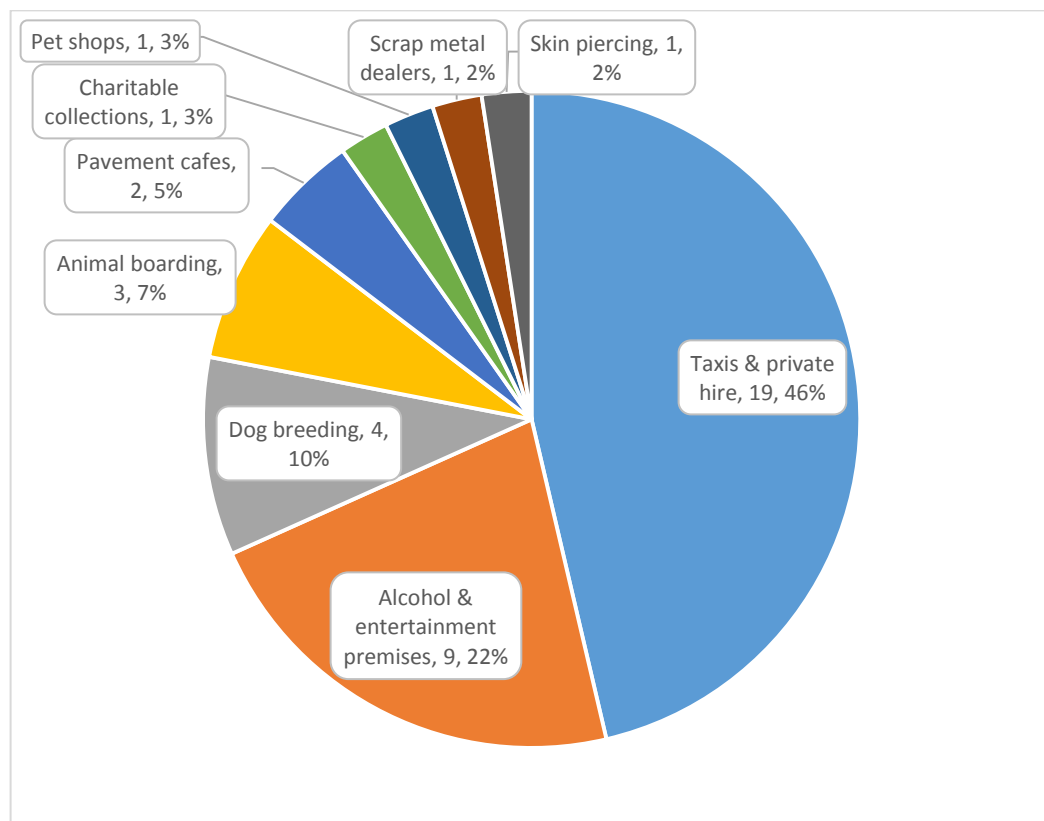
Applications received and licences in force

- 4.3 The numbers of applications received for each of the regimes administered by the

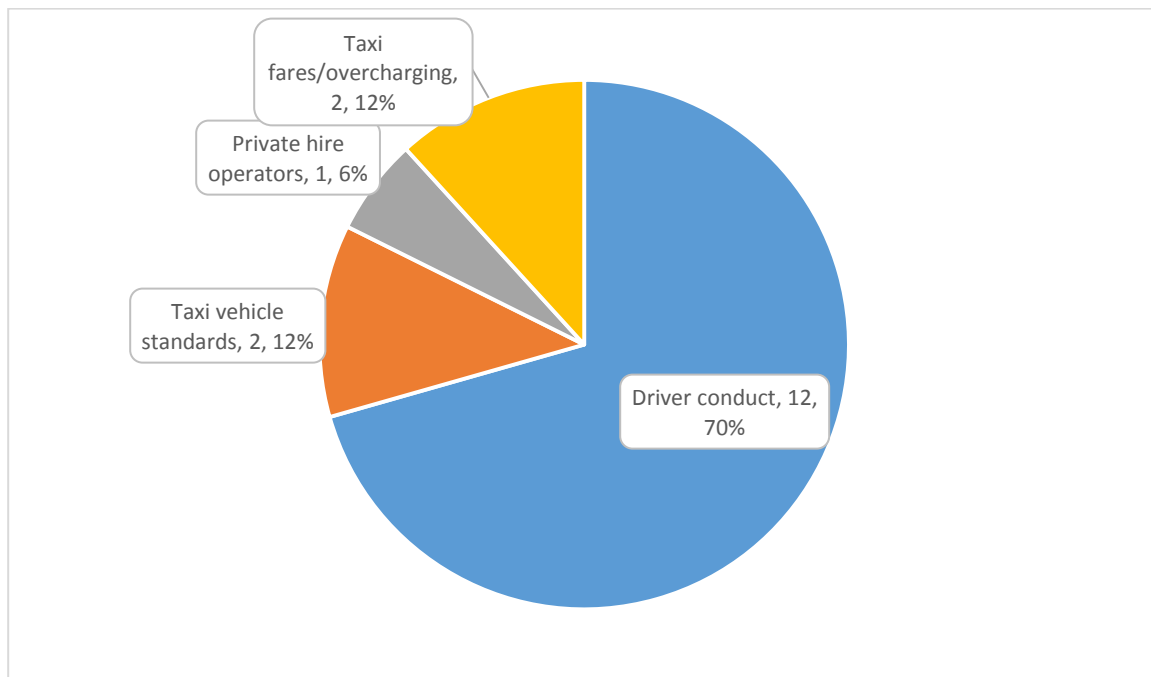
licensing service, between July and September 2018, are shown in comparison with those received for the period in the preceding two years at **Appendix A**. The numbers of licences in force and notices given as of the 29th October 2018 are shown at **Appendix B**.

Service requests

- 4.4 Complaints and requests for service which relate to licensed premises, persons and vehicles (and those who may need a licence) are recorded on the database as 'service requests'.
- 4.5 Also shown at **Appendix A** are the numbers of service requests received between July and September 2018, compared with the previous two years.
- 4.6 39 service requests were received in total. A split, by category is shown below:



- 4.7 15 of the aforementioned service requests are ongoing and/or a conclusion has not yet been reached.
- 4.8 As is always the case, the majority of complaints and requests for service relate to taxi and private hire drivers, vehicles and operators. The category split is shown in the graph below. 4 of these service requests have enquiries ongoing and/or a conclusion has not yet been reached.



Changes to animal licensing

- 4.9 It was explained in the update report circulated in August this year, that The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were to come 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.
- 4.10 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.
- 4.11 Animals kept and used by the police and military or in sport and wild animals used in travelling circuses are excluded from the above.
- 4.12 Zoo and dangerous wild animal licensing will continue to be controlled by the licensing authority but under existing legislation.
- 4.13 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.
- 4.14 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.

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

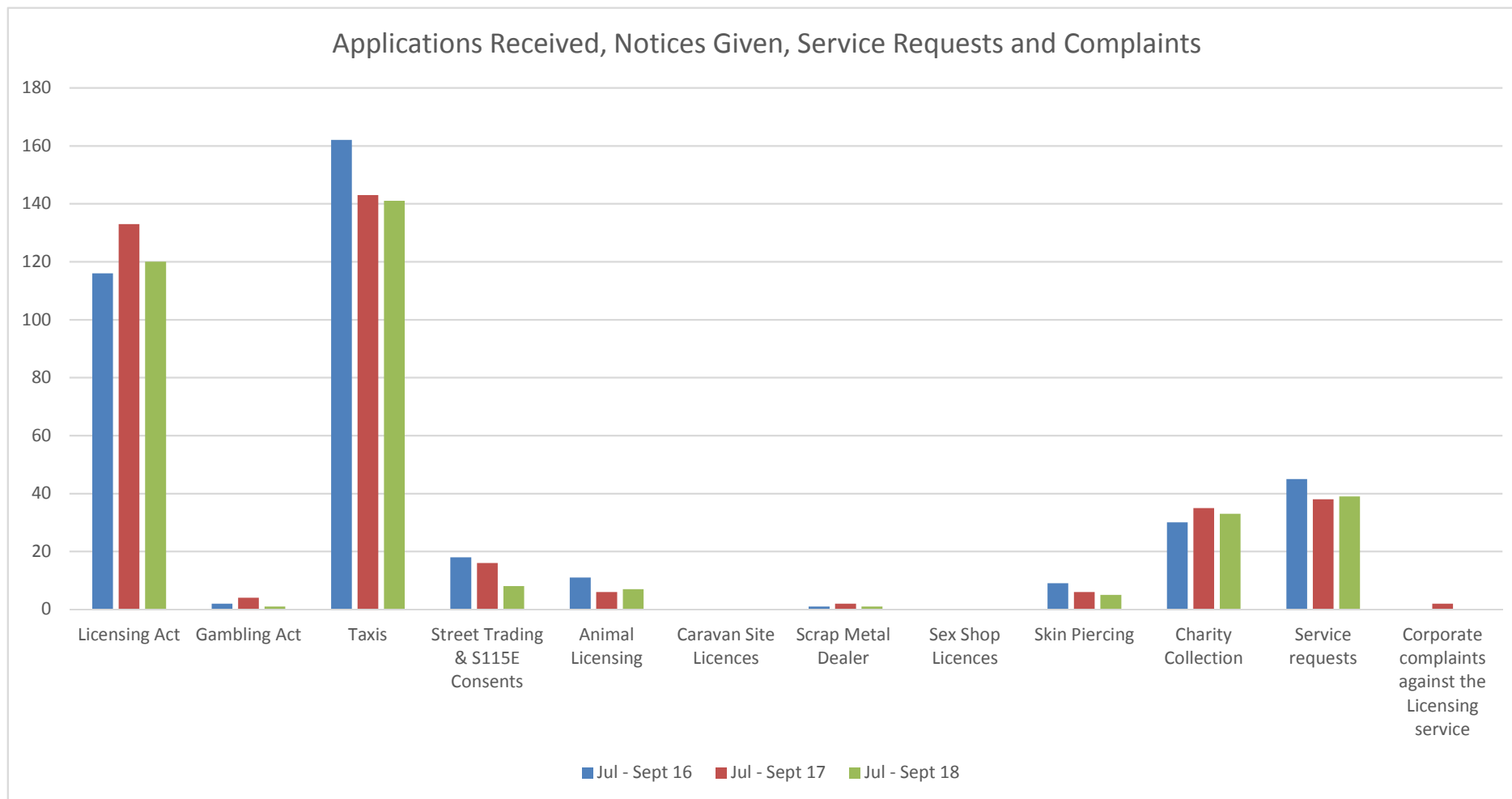
Twice-yearly Annually

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 29th October and the number of notices given since commencement of the relevant legislation

	Total	Difference from previous committee +/-
Licensing Act 2003 Premises Licences	420	0
Licensing Act 2003 Club Premises Certificates	29	0
Licensing Act 2003 Personal Licences	1543	30
Licensing Act 2003 Temporary Event Notices	4162	56
Gambling Act 2005 Club Machine Permit	4	-4
Gambling Act 2005 Licensed Premises Gaming Machine Permits	11	0
Gambling Act 2005 Occasional Use Notices	47	0
Gambling Act 2005 Premises Licences	16	0
Gambling Act 2005 Prize Gaming Permits	0	0
Gambling Act 2005 Society Lotteries (since 01/09/2007)	134	2
Gambling Act 2005 Temporary Use Notices	0	0
Gambling Act 2005 Unlicensed Family Entertainment Centres	3	0
Gambling Act 2005 Notification of 2 or less Gaming Machines	61	0
Hackney Carriages	185	-6
Private Hire Vehicles	40	-1
Hackney Carriage & Private Hire Drivers	233	0
Private Hire Operators	23	0
Street Trading Consents	9	0
Section 115E (Pavement Café) Permits	10	0
Zoo Licences	0	0
Pet Shop Licences	4	0
Dog Breeding Licence	6	1
Animal Boarding Licence	23	2
Hiring of Horses Licences	11	1
Dangerous Wild Animal Licences	0	1
Keeping or Training of Animals for Exhibition Licences	0	0
Caravan Site Licences	43	0
Scrap Metal Dealer licence	11	1
Sex Shop Licences	1	0
Skin Piercing Registrations	306	2
Street Collection Permits	338	2

House to House Collection Permit

145

1

Taunton Deane Borough Council

Licensing Committee – 21 November 2018

Proposed changes to the hackney carriage and private hire vehicle driver licensing regime

This matter is the responsibility of Executive Councillor Patrick Berry

Report Author: Mark Banczyk-Gee, Licensing Officer

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 requirement of drivers to pass a practical driving test on grant of a new licence.

2 Recommendations

Practical Driving Test

- 2.1 That members approve a proposal to introduce a practical driving test, which follows the format of the former DSA test (explained later in the report), to be taken by all new applicants. Also to be taken by drivers should they accumulate six or more penalty points on their DVLA driving licence within the three year licence period or where the Licensing Manager deems it necessary, following an evidenced complaint about the driving ability of the licence holder (be that from the Police, other agency or other third party).

3 Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
Drivers are currently given licences when the authority has no idea what there driving standard is.	4	2	8
Currently the authority has no way of checking what local knowledge applicants have to give the high service required by the authority.	4	4	16
Increase cost to applicants wishing to be hackney carriage/private hire drivers	5	1	5

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)
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	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
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			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

- 4.1 The council currently grants hackney carriage and private hire vehicle driver licences for a duration of three years. One year licences can be given on application with particular circumstances and at the Licensing Manager's discretion.
- 4.2 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. The council currently has a multi-faceted approach to determining the fitness and propriety of an applicant.

- 4.3 I would estimate that at present, complaints against drivers are probably split fairly evenly between conduct and driving manner.
- 4.4 At present the application process for a hackney carriage/private hire driver in Taunton Deane is as follows: application form, with medical report, driving history is checked and a DBS check is carried out. If all of these are okay, then the drivers has a knowledge and suitability test. This is conducted by a Licensing Officer and consists of a set of 10 questions based on Appendix 1 of the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook; more commonly referred to as the 'Taxi Handbook'. Should applicants answer these questions fully, they are then issued a drivers licence.
- 4.5 This means there is no direct testing of geographical knowledge or driving ability. Therefore we expect drivers to be fit and proper but this is initially judged on their driving licence and criminal record, plus a limited knowledge and suitability test of 10 questions. Attached at **Appendix 1** is the sheet which the Licensing Officer uses during the interview, which shows the topics covered.
- 4.6 The introduction of a practical driving test will assist in judging the suitability of the applicant, and create a standard of driving expected. The driving test we wish to introduce follows the test which used to be carried out nationally by the Driving Standards Agency (DSA). This was used widely across the UK by licensing authorities as a means of checking driving standards. When the DSA announced they would no longer offer this test, various companies, individuals and organisations, such as the Blue Lamp Trust etc., stepped in to ensure service to licensing authorities could be maintained. I have attached the descriptive sheet of the test; see **Appendix 2**.
- 4.7 Part of the driving test includes eyesight check –reading of a number plate at a prescribed distance, there is also some 'Cabology' questions, normally two. Although this crosses over with the current knowledge and suitability test it does include technical questions in respect of tyres which are not included in the knowledge and suitability test.
- 4.8 This cost of the test is approximately £60 currently. This, coupled with current checks carried, out will clearly enhance our ability to judge the applicants fitness and suitability and indeed their commitment to the role.
- 4.9 It is our intention that new applicants must produce evidence that they have passed a test equivalent to the DSA test, in order to complete the application process and be issued a licence. I have canvassed the market for a suitable individual/company to carry out these tests locally and have identified a Mr Bryan Booth. He is suitably qualified and has a similarly qualified colleague should he be sick. A similar policy to the one proposed in this report has been in place in West Somerset Council for a number of years and since the DSA stepped away, Mr Booth has been the instructor of choice. He is currently also used by other councils in Somerset, including South Somerset and Mendip. Taunton Deane is in fact the last remaining licensing authority in Somerset not to have a practical driving test for hackney carriage and private hire drivers. Whilst we intend to accept evidence of the test having been completed by any reputable source, my recommendation is that drivers be signposted to Mr

Booth. I have been on a test with him and he clearly understands his role. By introducing this facility to the selection procedure, I believe as I have explained above, it will enhance the quality of driver whom we licence and lead to less complaints in relation to hackney carriage/private hire drivers behaviour and manner of driving.

- 4.10 This addition to the licence application process will require an update of the Taxi Handbook and website to describe the process and give contact details of the tester.
- 4.11 In relation to using the tester following complaints in respect of driving standard, this will give the council a more solid foundation with first hand evidence of the drivers abilities in order to make a sound judgement, which is unlikely to be challenged.
- 4.12 Members of the Taxi and Private Hire Trade Forum were advised of the proposals during the meeting held on Wednesday 23rd May this year. Minutes of the meeting are attached at **Appendix 3**, agenda item 5. Some concerns were raised about the cost of the test, and original proposals to direct drivers to re-take it after accumulating 5 DVLA driving licence penalty points. This has been taken on board and the threshold for retaking the test has been increased from 5 points to 6. Furthermore, it has been clarified that the actual cost of the test is £60; the additional £15 quoted in the meeting (taking the total to £75) representing a practice session, which is entirely optional. Those concerns aside, those at the forum were supportive of the proposal.

5 Links to Corporate Aims / Priorities

- 5.1 The licensing service is committed to helping businesses and individuals to comply with all relevant legislation and reduce unnecessary burdens in order to support new and existing businesses and enabling cultural and leisure activities, thereby supporting the Council's vision 'to enable people to live, work and prosper in Taunton Deane and West Somerset.

6 Finance / Resource Implications (if any)

- 6.1 The introduction of the test will increase the immediate costs to individuals wishing to become hackney carriage and private hire drivers. However, it is anticipated that, over time, demands made on the service would be reduced by virtue of higher standards of driving being maintained and this in turn will minimise costs to the trade through the fees that are levied.

7 Legal Implications (if any)

- 7.1 None apparent.

8 Environmental Impact Implications (if any)

- 8.1 No environmental impact implications were identified.

9 Safeguarding and/or Community Safety Implications (if any)

9.1 Adopting the proposal can only serve to further promote community safety, by ensuring that licences are only granted to those who can evidence a professional standard of driving. Furthermore, where driving ability falls below expected standards, the proposal includes a mechanism to allow the licensing authority to respond in a consistent and positive manner, without necessarily need to resort to suspension or revocation of an individual's licence.

10 Equality and Diversity Implications (if any)

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 (if any)

11.1 No social value implications were identified.

12 Partnership Implications (if any)

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications (if any)

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

14 Asset Management Implications (if any)

14.1 No asset management implications were identified.

15 Consultation Implications (if any)

15.1 Holders of hackney carriage/private hire vehicle driver licences were consulted via the Taxi and Private Hire Trade Forum, as described at paragraph 4.12, and were overall supportive of the proposal.

16 Scrutiny Comments / Recommendation(s) (if any)

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	Licensing Officer’s knowledge and suitability interview summary
Appendix 2	Summary of the practical driving test
Appendix 3	Minutes of the Taxi and Private Hire Trade Forum meeting held on Wednesday 23 rd May 2018.

Knowledge & suitability interview declarations

Applicant:

Application ref:

Date of interview:

Licensing Officer

I have interviewed the aforementioned driver, covering the following topics:

- What to do when charged or convicted of an offence;
- Reporting accidents;
- What to do with lost property;
- What is meant by 'tout or solicit';
- Unnecessarily prolonging the journey;
- Conveying guide/assistance dog and wheelchair bound passengers;
- Examples of checks that should be made on the vehicle before starting work;
- What steps should be taken to make a customer aware of the vehicle when carrying out a pre-arranged booking;
- Appearance and attitude;
- The importance of good customer service, maintaining high standards of professionalism and how this affects the 'bigger picture'.

The applicant has demonstrated to me that they have read and understood Appendix 1 of the 'Taxi Handbook'; Standard Conditions for a Hackney Carriage/Private Hire Driver's Licence.

Taking into account the above, all of the information supplied upon application, the results of the DBS certificate and the suitability of the applicant, which I have assessed taking into account the observation made by Justice Silber in the Leeds City Council v Hussain case, I recommend that the applicant be granted a licence to act as the driver of a Hackney Carriage/Private Hire vehicle.

Print name:

Signature:

Date:

Applicant

I understand that:

- I can only drive Hackney Carriages or Private Hire vehicles that are licensed by Taunton Deane Borough Council and that it is an offence to drive a vehicle licensed by another local authority, unless I hold a licence issued by that local authority;
- If I drive a Hackney Carriage licensed by Taunton Deane Borough Council, I can only ply for hire or be hailed within the district of Taunton Deane and that it is an offence to ply for hire or be hailed in another district;

I agree to comply with all of the conditions contained within Appendix 1 of the 'Taxi Handbook'; Standard Conditions for a Hackney Carriage/Private Hire Driver's Licence.

Print name:

«name»

Signature:

Date:

Taxi Assessment Test

The test will be in the same format as the DSA test and will include the following:

- A taxi turn chosen by you – i.e. a turn in the road, a reverse around a corner or a U-turn;
- An emergency stop;
- A pull away on a hill;
- A pull away on the flat;
- A pull away from behind a parked car;
- Two cabology questions;
- Three Highway Code questions; and
- Four questions on identification of road signs and markings.

You will be expected to show good control of the vehicle and excellent observational skills throughout the test.

In order to pass the test you are not allowed any serious or dangerous faults, and you are only allowed to make a maximum of eight minor faults.

The test will last approximately 40 minutes and will be taken in the examiners own vehicle.

The test will start with an eye test and you will be required to read a number plate from 20.5 metres.

The test will start and finish at a location arranged between you and the examiner and you are advised to ensure that you arrive five minutes before the appointed time.

Please bring your driving licence photo card with you (or paper part and another form of photographic ID if you do not have a photo card). The test will not be conducted unless you produce your driving licence.

How to book

To book your test please contact Bryan Booth on 07970 857 027.

The test costs £60. For a further £15, there is the option to have a practice session, intended to highlight and address any 'bad habits' prior to the official test.

All payments are to be made directly to Mr Booth and if you did not give 48 hours' notice to cancel your test, you arrive more than five minutes late or you do not bring your driving licence, you will still have to pay the cost of the test.

Taxi and Private Hire Trade Forum

Weds 23rd May 2018

Attendees:

Councillor Kelly Durdan – Licensing Committee - *Chair* (KD)
Councillor Patrick Berry – Licensing Committee (PB)
Councillor Gary James - Licensing Committee (GJ)

Licensing:

John Rendell – Licensing Manager (JR)
Brad Fear – Licensing Assistant - *Minutes* (BF)
Alison Evens – Licensing Officer (AE)
Leigh-Ann Fumagalli – Licensing Officer (LF)
Fern Avis – Licensing Officer(FA)

Taxi / Private Hire Trade:

Mike Davis – A1 Ace Taxis (MD)
Seb Toon – TLC Taxis (ST)
Steve Toon – TLC Taxis (STN)
Donna Bell – TLC Taxis (DB)
Dave Hurford – TLC Taxis (DH)
Jared Colclough - Grab-a-Cab (JC)
Robin (Bob) Colclough – Trade Association (RC)
Jason Baxter – Independent (JB)
Nigel Swift (NS)
Daniel Abbott (DA)
John Bolton (JB)

Meeting Minutes:

1. Introductions and One-Minute Silence

Introductions of attendees.

Attendees held a one-minute silence for Martin Jones – who sadly passed away in recent months – and for John Hussey – who is currently battling cancer.

2. Transformation & Formation of a New Council

- JR read attendees the joint statement from Taunton Deane Borough Council and West Somerset Council regarding the formation of a single council. Highlighted the work that the Licensing service will be putting into this – legal work, reviewing of policies, etc. Mentioned that whilst it is conceivable that the new council will keep two taxi zones, it is currently hard to see how this would be in the public interest. Will be looking to update trade as decisions are proceeded with; emphasised that there are likely to be potential problems with creating a single taxi ‘zone’ as well as problems with keeping two.
- JC referenced Cornwall and how they currently operate six zones, a system which is working comfortably for them. JR has contact in Cornwall that can work with and will look to discuss this further with them.
- RC expressed concerns by trade that creation of a single zone will lead to an influx of Minehead drivers operating in Taunton, which will have a devastating impact on Taunton drivers. Suggested that, whilst bringing licensing procedure and policy in line for both areas would be fine, two zones should still remain for TDBC and WSC trade. JC questioned if creating a single zone was really in public interest.
- NS addressed difference in WSC fee structure – which believes to be lower than TDBC.
- MD suggested that would need facts on how many drivers in Minehead. LF pointed out that Minehead drivers have expressed the same concerns about Taunton drivers operating in Minehead under a single zone.
- JR updated attendees on TDBC ‘Transformation’ project and what this would mean for the future: specifically, that there would be no single ‘licensing’ team and a stronger emphasis would be put on online customer self-service. KD asked what effect this would have on future of Forum meetings. JR felt this depended on structure; possibly with ‘specialists’ arranging, but will push for Forums to be kept in place moving forward. KD will also push for this to remain in some form.
- Due to a lack of finer details currently, JR not certain who will be looking after each area of licensing, moving forward. Mentioned Licensing team’s recent commitments involving reviewing of current processes. Informed trade of LF’s upcoming departure from the Licensing Team and how this may have a short term impact on turnaround times.
- RC expressed concerns with planned online self-service and the impact this might have on time scales, commenting that turnaround times of late

have been brilliant and wondering how that level of service will be maintained. Also wondered how this will be affected by Somerset County Council's proposed vision of a unitary council. JR stressed that Council is trying to be more efficient, utilising technology to allow applicants greater control, ease of use and easy access to updates on the progress of their licence, cutting out a lot of the admin that currently exists. With regard to the SCC unitary council; Transformation will continue regardless of proposals. RC asked if fees will be cheaper if less admin is required and JR responded that he expected this to be the case.

- MD asked if TDBC's proposed structure is in place anywhere else. JR responded that a number of councils have started taking a customer-oriented approach, as close as in Devon. PB talked about software which has been in development over the last few years, specifically to fit this sort of structure.
- DA noted that whilst there was likely to be a period of uncertainty, he believed that this would ultimately benefit customers.
- MD asked when are likely to be the months worst affected by this. JR answered that Phase 1 of Transformation currently ongoing, with Phase 2 commencing in August/ September and 'go live' from 1st April 2019.
- RC and ST have volunteered to test new processes before this. KD asked if anyone else would like to volunteer for this and JC expressed an interest in this.

3. Knowledge Test

- LF discussed work she has been doing on creating a more robust and multi-faceted knowledge test, running briefly through planned sections of the test, including a map-based geography test with boxes pointing to destinations a driver would be expected to know. Volunteers will test this to ensure fit for purpose.
- RC expressed concerns that a blank map is not being used for the test; which would require applicants to have a more thorough knowledge of Taunton and surrounding areas. Also expressed concerns in relation to over-reliance by new drivers on sat-navs – specifically where 'shortest route' should be being selected and isn't.
- DB asked if this new knowledge test will be implemented on existing drivers and if everyone will need to resit this. JR responded that this currently isn't the intention, due primarily to existing delays expected on resources and how carrying out these extra knowledge tests might add to

this. However, suggested that Licensing team would be looking to focus on ‘drivers of interest’ (e.g. those attached to complaints or of whom issues or concerns have been raised). ST pointed out that WSC implemented a new geographical test a few years back and these had to be carried out on renewal of their licence.

4. Taxi Roof Signs

- ST emphasised how a few years ago taxis were required to have roof signs and that these needed to meet certain standard requirements. Most councils still do enforce this and ST believes TDBC should look to introduce this policy. MD asked if this was not already a condition and JR confirmed that it was not.
- JR will check policy, as believes that PH vehicles can also have top hats if state ‘Advanced Hire’.
- JB pointed out that a number of PH vehicles appear to be operating without plates; ST suggested that a number of these do have exemptions which allow plates to be attached to inside of the boot. However, concerns were raised by the trade on unlicensed individuals advertising PH services via social media. RC expressed concerns that these young unlicensed drivers were acting illegally even if escorting friends, as they were charging more than 46p per mile. KD needed to clarify with trade in what circumstances these individuals would be operating illegally and attendees confirmed that legally only able to charge price of fuel – with any payment requested over this requiring them to be licensed by the local authority. JR asked trade to be sure to report any such unlicensed drivers advertising online, so that these individuals can be advised of legal obligations etc.
- Action Point: JR will add taxi roof signs to list for review. Note, however, that transformation will likely effect speed of completing the report, going to committee etc.
- RC suggested that these signs should be of uniform size.

5. Practical Driving Test

- Mark Banczyk-Gee in Licensing currently working on/reviewing the implementation of practical driving tests with Blue Lamp Trust; as TDBC currently only local authority which does not have one in place. Could be

mandatory for all drivers, however, implementation of this will again be affected by transformation and expected strain on resources.

- NS expressed concerns about review if five points received on licence. JB agreed that this might be a bit harsh on drivers. JR responded that Licensing would be looking to suspend licences rather than revoke them should such circumstances arise, and drivers will be required to re-take the test. Ensures that measures are being taken towards protecting the public. JB noted that Licensing should have driving history on record and wondered if this would not be taken into consideration if, for example, a driver with years of good driving suddenly had points applied to their licence. JR confirmed that policy acts as a guide to Licensing, but each case will be judge on its own merits and past record will be taken into consideration.
- DA noted that £75.00 extra on fee was quite substantial and would need to be recouped.
- RC believes this has been a long time coming and is satisfied that this will slow down entry of new drivers and will highlight any problems with potential drivers who have difficulties communicating in English. With regard to price, RC satisfied that sincere drivers will pay the extra fee. NS also noted that he was surprised that practical tests hadn't been considered before.
- ST believes this is a great idea, as has recently had to report a number of drivers for poor driving. Will ensure more professional services.
- JB noted that taxi driving requires a variety of skills – lots of potential circumstances to deal with, different requirements for different customers. JR responded that the ability to multi-task is something that they have highlighted to be covered by the test.

6. Extra Charges for Card/ Mobile Payments

- MD summarised changes in law relating to charging for payments made by card. Cost can no longer be recovered in the way they were previously; however, if National PH Association have advised that if these become a chargeable item by the Licensing authority, costs can be legally covered. Requested that this be considered by TDBC.
- GJ asked if customers could be advised of extra charges if paying by card and MD advised that this would be on the fare card.
- DA wondered if customers would appreciate this extra charge, as it doesn't fall in line with their expectations. RC also expressed concerns that this would reinforce a negative image of taxi drivers.
- JC suggested TDBC add this to their policy/guidelines and then let drivers choose if they wish to implement it or not.

- JR advised that Licensing will liaise with MD to discuss further. This can also be brought up as part of the review on tariffs going in to the formation of a single council.

7. VAT Registration

- Reports made to Licensing of drivers/operators evading tax. Two reports have already gone to HMRC in relation to this. This obviously raises concerns about drivers/operators being 'fit and proper'. Operators and drivers who should be VAT registered and they will be written to. Further reports will be made to HMRC and, where necessary, licences revoked.

8. Medical Policy

- AE currently reviewing medical policy. Want to be ensuring that drivers are being checked regularly, with medicals being implemented on application and on renewal.
- RC expressed concerns that medicals were already expensive to acquire. JR suggested that these can be carried out by registered medical practitioners and not necessarily GP, so may not need to incur extra charges.
- MD asked if this would be required every three years. AE responded that if drivers had applied for one year then this medical would need to fall in line with renewal dates, but would expect these to be repeated every three years, with normal driver renewal.
- ST advised that medical test be brought in line with driving standards, as current test is too broad, not in-depth enough. JR confirmed that format would be looked at to ensure fit for purpose. Would be looking for recommendations from medical practitioner; e.g. should the driver be reviewed more frequently?

AS MEETING CLOSED, JR ADVISED THAT LICENSING WILL BE LOOKING TO BOOK ANOTHER FORUM MEETING TO TAKE PLACE IN A MONTH'S TIME, SO THAT ANY MISSED POINTS/ BUSINESS CAN BE RAISED THEN/ EXPLORED IN MORE DETAIL.

Meeting End Time: 19:30

Taunton Deane Borough Council

Licensing Committee – 21 November 2018

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

This matter is the responsibility of Executive Councillor Patrick Berry

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 'Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook; 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)
	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

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 in the past 10 years, revoked/refused licences from/to individuals for a variety of reasons, including:
- Poor standards of driving and aggressive behaviour towards another motorist, caught on video camera (although no charges were brought about by the Police);
 - False representation on a licence application form, specifically a false address given to try and avoid the council's 'out of area driver' policy.
 - Sexual assault (although no actual charges were brought about by the Police);
- 4.8 In all three of the above cases, the licences were revoked. Yet, because none of the individuals were convicted, they could re-apply for licences to other councils and those councils would potentially not be aware of the events which led to the revocations.

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

- 4.9 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'.
- 4.10 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.

- 4.11 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.
- 4.12 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.
- 4.13 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.
- 4.14 An initial check of this authorities licensing records has been carried out and there are 13 recorded revocations and 5 refusals (to renew a licence); a total of 18 individuals therefore that this authority would be seeking to record on NR3.

Complying with the General Data Protection Regulations (GDPR)

- 4.15 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.
- 4.16 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 Taunton Deane Borough 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.
- 4.17 Should the policy at **Appendix 1** be adopted, this authority would need to, before it can contribute to NR3, notify the 18 individuals referred to at paragraph

4.12 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 Taunton Deane Borough 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.tauntondeane.gov.uk/privacy-and-security/>. 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 Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook; 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.

