

**POLICY IN RESPECT OF REQUESTS FOR INFORMATION,
DISCLOSURE OF INFORMATION, AND USE OF
INFORMATION AS A RESULT OF AN ENTRY ON NR3**



Introduction

Licensing Authorities are required to satisfy themselves that those holding a Hackney Carriage and Private Hire Vehicle (PHV) drivers licences are 'fit & proper' to do so. This is done firstly during the determination of an application for a licence, and then at any time during the period of holding a licence.

The process of assessing whether an applicant or licensee is 'fit & proper' may vary between authorities but there is widespread consensus on the need to increase consistency and set national standards for the fit and proper test at a suitably high level. This would help prevent individuals who have had a licence revoked by one authority from simply going to another area and securing a licence – assuming the second authority was aware of the earlier revocation.

Currently if drivers do not disclose information about a previous revocation or refusal of a licence, there is often no way for a licensing authority to find this information out. This means that vital intelligence about an applicants' past behaviour is being missed and an individual might be able to obtain a new licence in another area, despite having their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriage and PHVs, and left licensing authorities open to criticism for something that is currently very difficult for them to control.

In response to this issue this council has subscribed to the national register of hackney carriage and PHV driver licence refusals and revocations, the National Register of Refusals and Revocations' or NR3. The register will allow licensing authorities to record details of where a hackney carriage or PHV driver's licence has been refused or revoked, and allow licensing authorities to check new applicants against the register. This should help to prevent people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure. For the avoidance of doubt, the NR3 does not extend to vehicle or operator licensing decisions.

1. Policy

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.

2. 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' licence¹. This information is important in the context of a

¹ 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.

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.

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 application².

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 further 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 stated³. 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 states (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 www.sevenoaks.gov.uk to 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 which is available at www.sevenoaks.gov.uk

² The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

³ Any appeal by way of a case must be lodged within 21 days of the decision of either the Magistrates Court or the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

3. Making a request for further information regarding an entry in NR3

When an application is made to this authority for the grant of a new, or renewal of, a taxi drivers' 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.

4. Responding to a request for further information regarding an entry on NR3

When this authority receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. a combined 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 has conducted a Data Protection Impact Assessment. This has considered 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 the 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.

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.

We will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within this authority's Hackney Carriage and Private Hire Licensing Policy (Relevance of Convictions and Cautions). Where the reason for refusal to grant or revocation relates to a conviction 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 which is outside 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.

Lawful basis for processing : It is necessary for the Council to process the personal data contained in the records in the exercise of official authority. To this end the lawful basis relied upon is 'Public Task'.

The public functions and powers in respect of applications for hackney Carriage Licensing are set out in law. In the light of government guidance the Council could not reasonably perform the task or exercise the powers in a less intrusive way.

Any information about convictions will be shared in accordance with this policy under part 2 of schedule 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 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.

5. 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 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 (<i>For completion by requestor authority</i>)	
Requestor authority reference number	
Name of licensing authority from which information is sought	
Name of individual in respect of whom the information is sought	
Decision in respect of which the request is made: a) Refusal b) Revocation	
Other details for this record: Address: Driving Licence Number	

National Insurance Number (NI)	
Reference Number	

DECLARATION BY REQUESTING AUTHORITY:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi/private hire vehicle licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and private hire vehicles, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request can be accessed at www.sevenoaks.gov.uk

Signed:

Name:

Position:

Date:

(For completion by providing authority)

Further information to support decision recorded on NR3 in respect of the above named individual

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Declaration by providing authority

The authority hereby confirms that it has concluded a data protection impact assessment.

It also confirms that the information above is accurate and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above-named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a tax/private hire drivers' licence the above named individual has been made aware to the fact that this information will be shared, in accordance with all relevant data and privacy requirements.

Signed:

Name:

Position:

Date:

