

LICENSING COMMITTEE

National Register of Taxi Licence Revocations and Refusals

9 January 2020

Report of Commercial Protection Manager

PURPOSE OF REPORT

For the Committee to provide a recommendation to the Executive Member regarding the adoption of the National register of Taxi Licence Revocations and Refusals.

The report is public.

RECOMMENDATIONS

- (1) That the Committee provides a recommendation to the Executive Member supporting the adoption of the National Register of Taxi Licence Revocations and Refusals.

1.0 Introduction

- 1.1 The Council is responsible for licensing hackney carriage and private hire drivers. In determining such applications the legal test is that the Council must be satisfied that the applicant is a “fit and proper” person to be granted a licence. There is no precise definition as to what constitutes “fit and proper” and the Council’s discretion is wide ranging.
- 1.2 In assessing an application for a private hire/hackney carriage driver’s licence, the Council currently requires successful completion of the following - driver knowledge test, practical driving assessment, medical, criminality check, and check of DVLA driving licence for penalty points.
- 1.3 All applicants are asked on the application form if they have ever had a licence application refused or revoked by a local authority. If they indicate yes, then further investigations are undertaken with the relevant local authority. If an applicant indicates that they have never had an application/licence refused or revoked, the Council currently has no means to check the accuracy of the statement. There is the potential for an applicant to have had a licence application refused or a licence revoked without Lancaster City Council knowing, and whilst it is reasonable to assume that an enhanced DBS will detail relevant convictions, a DBS will not provide details of customer complaints made against a licence holder.
- 1.4 The situation described in paragraph 1.3 above can be reversed, in that a licence driver whose licence has been revoked by Lancaster City Council due to complaints/conduct issues may chose not to disclose this on any subsequent application made to another Local Authority.

1.5 In recent years there have been high profile cases where the conduct of licensed drivers has been unacceptable and whereby one means or another those people have been allowed to continue to operate within the industry. This has undermined public confidence in the taxi/ private hire industry and left some licensing authorities open to criticism for something which has been very difficult to control.

2.0 Report

2.1 In September 2018, a Department for Transport Ministerial Task and Finish Group published a report with 34 recommendations regarding steps towards a safe and more robust taxi licensing system. Included as recommendation 23 is the use of the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked hackney carriage/ private hire driver licences.

2.2 In February 2019 the Government (DfT) published its response to the Task and Finish Group report. Within the summary of that response is the following statement - "the Government accepts the three key measures recommended to achieve a safe service for passengers" – one of these was a national Licensing database

2.3 In August 2018, the Local Government Association (LGA) launched a national register of taxi and private hire licence refusals and revocations. The register allows Councils to record details of where hackney carriage or private hire drivers' licences have been refused or revoked and to check new applicants against the register, whilst the LGA and the Institute of Licensing have encouraged local authorities to adopt the register, it is a voluntary issue.

2.4 The LGA considered that a register was needed to tackle the issue of individuals making applications to different authorities following refusal or revocation of hackney carriage/private hire driver licences/applications. This view was clearly endorsed by the recommendations of the DfT Ministerial Task and Finish Group and the Government's response to the Task and Finish Group report

2.5 The LGA commissioned the National Anti-Fraud Network (NAFN) to develop and host a register, the National Register of Taxi (also incorporating Private Hire) Revocations and Refusals – known as NR3

2.6 NAFN is a local authority-owned not-for-profit organisation and is hosted by Tameside Council. To utilise the register, local authorities are required to be members. Lancaster City Council is already a member of NAFN.

2.7 If the Council chooses to adopt the NR3 register it will involve the Council providing information for the database on revoked or refused driver licensees/applicants and responding to data requests on the named individuals in the event of that individual applying to another local authority for a hackney carriage/private hire driver's licence. The database will record that a licence has been refused or revoked but will not provide the reasons or the background for the decision. Such information will only be considered as a result of a formal data access request.

2.8 The operation of the database needs to be effectively controlled to ensure data is handled fairly, sensitively and in accordance with all data protection requirements.

2.9 Attached to the report at **Appendix 1** is a copy of the LGA guidance on adopting the National register of Taxi Licence Revocations and Refusals (NR3)

2.10 With particular reference to the guidance (**Appendix 1**):

Section 4.1 of the guidance refers to membership of NAFN and the need to sign up to data processing agreements with NAFN. There are no additional costs associated with this, although NAFN membership costs £1,500 per annum and the Council's Corporate Fraud Manager has suggested that, if the register is adopted, the licensing budget partially funds the annual membership fee.

Section 4.3 of the Guidance refers to historic data migration and refers to data being retained for 25 years on the NR3 register. If the Council chooses to adopt the register, it will be required to write to each individual who has been refused or revoked during the relevant period and advise them that their information will be uploaded to the register and the reasons for this. Any individual may request that their information is not uploaded and any requests of this nature will have to be fully considered before a final decision is made. A template suggested wording of the letter to be sent to these persons whose licences have been revoked or refused during the period is included at Annex C of the guidance.

Section 5.3 of the Guidance refers to the disclosure of information relating to refusals and revocations and the need for the Council to have a policy which governs its approach to the circumstances in which it will share receive and use information data from the register. The Guidance provides a template policy at Annex D.

- 2.11 If the view of the Council is to adopt the register, licensing officers would work with colleagues in Information Governance to agree the data processing agreements.

3.0 Details of Consultation

- 3.1 The decision as to whether to adopt the register is an Executive decision. The Licensing Committee is a consultee, and is being asked to make a recommendation to the Executive Member regarding adoption of the register.
- 3.2 If the Executive makes a decision to adopt the register, those persons whose historical revocation/refusal is intended to be included within the register will be advised of the intention and offered the opportunity to make representations regarding the same.
- 3.3. If the register is adopted, new applicants and existing licence holders will be advised at the application stage of the intention to utilise NR3 register and records.

4.0 Options

- 4.1 Make a recommendation to the Executive to adopt the NR3 register. This is the officer's preferred option for the following reasons:
- Supports the recommendation in the Ministerial Task and Finish Group report;
 - Provides enhanced opportunity for public safety;
 - Provides an enhanced measure for assessing the "fit and proper" standard;
 - Provides information to other local authorities to enhance their decision making;
 - Provides support for the national Licensing database.
- 4.2 Make a recommendation to the Executive not to adopt the NR3 register.

The potential for an applicant who has previously had a licence revoked or refused by another local authority to be granted a licence by Lancaster City Council will remain.

Similarly the potential for a person who has had their driver's licence revoked or refused by the Council to be granted a licence by another local authority remains.

5.0 Conclusion

- 5.1 It is an Executive decision as to whether the Council adopts the voluntary NAFN NR3 register as part of the taxi licensing administrative processes. The Executive Member has requested the Licensing Committee consider the matter and make a recommendation to the Executive.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing):

If the register is adopted the impact would be the same across all equality groups.

If the register is not adopted, then there is a potential to impact on public safety, as the measure taken to assess the "fit and proper" standard required of taxi drivers will not include a check on the register of refusal/revocations in other local authority areas.

A decision to revoke or refuse a licence does have the potential to impact on Human Rights. However, this is limited by public law where it is necessary and proportionate to share information in the interest of public safety and the protection of the rights and freedoms of others.

LEGAL IMPLICATIONS

Hackney carriage and private hire licensing is a statutory function of the Council. In undertaking the statutory function in relation to licensed drivers the Council has to be satisfied that the applicant/licence holder is a "fit and proper" person to hold a licence.

The adoption of the NR3 Register and Guidance would enhance the decision making in terms of the fit and proper test.

Participation in NR3 is voluntary. There are no statutory requirements for the Council to participate. However, it is recognised that NR3 is supported by the DfT Task and Finish Group and the Associated Government response to that report.

FINANCIAL IMPLICATIONS

There is an annual cost associated with membership of NAFN. The Council is already a member and therefore there are no additional costs to the Council. It is realistic to expect the Licensing budget to make a contribution towards the annual membership costs. The LGA guidance suggests that this is a cost which is recoverable from hackney carriage/private hire driver licence fees.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces

In the event of a decision to adopt the register, there will be some staff resources required to collate historical records and administer data processing requirements. It is envisaged that this can be managed within existing resources but may be at the expense of other proactive project work.

Once the systems are in place, it is envisaged that a check of the register will add 5 minutes to the administration process of a new/renewal driver licence. There are approximately 200 driver renewals and 50 new driver applications per annum.

There is also likely to be a number of data requests from other authorities in respect of Lancaster revoked/refused drivers/applicants. It is estimated that this will not exceed 20 requests per annum. Each request would take an estimated 30 minutes to process.

BACKGROUND PAPERS

Department for Transport - Taxi and private hire vehicle licensing steps towards a safer and more robust system - 24 September 2018

Government response to report of the Task and Finish Group on taxi and private hire vehicle licensing – Moving Britain ahead – February 2019

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