



<b>Classification</b>	<b>Item No.</b>
<b>Open / Closed</b>	

<b>Meeting:</b>	Licensing & Safety Committee
<b>Meeting date:</b>	17 April 2023
<b>Title of report:</b>	National Register of Refusals, Revocations and Suspensions (NR3S)
<b>Report by:</b>	Executive Director (Operations)
<b>Decision Type:</b>	Council
<b>Ward(s) to which report relates</b>	All

**Executive Summary:**

A report to consider the proposal to adopt the National Register of Refusals, Revocations and Suspensions (NR3S)

**Recommendation(s)**

**That:**

Members are requested to consider the following option:-

1. Recommend approving the proposals

**Key considerations**

This is a Council function that is delegated to the Licensing & Safety Committee by the Councils constitution. This paper is in the public domain.

**1.0 Background**

- 1.1 The Council is responsible for licensing of 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 the licence. There is no precise definition as to what constitutes “fit and proper” and the Councils discretion is wide ranging.
- 1.2 In assessing an application for a private hire/hackney carriage driver’s licence, the Council currently requires new applicants to complete:
  - A screening test – language skill, numeracy and literacy tests
  - A topographical and licensing knowledge test
  - An independently assessed practical driving test

- A DVLA group 2 standard medical (the same standard as required for HGV/PCV drivers)
- The completion of an enhanced DBS disclosure (criminal records check)
- A verification of status of DVLA driving licence (FPN and motoring convictions status)

- 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 mechanism to check the accuracy of the statement. There is therefore the potential for an applicant to have had a licence application refused or a licence revoked without Bury Council knowing, and whilst it is reasonable to assume that an enhanced DBS will detail relevant convictions, a DBS will not normally provide details of driver conduct/ customer complaints unless such actions result in a conviction.
- 1.4 The situation described in the paragraph above can be reversed in that a licensed driver whose licence has been revoked by Bury Council due to conduct/complaint issues may choose not to disclose this on any subsequent application made to another Local Authority.
- 1.5 During recent years there has been several high-profile case 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 taxi industry (taxi in this context being a generic name for hackney carriage and private hire). This has undermined confidence in the industry and left some licensing authorities open to criticism for something which has until now been very difficult for them to control.
- 1.6 The LGA and the Institute of Licensing launched the National Register of Taxi Licence Revocations and Refusals (NR3S) in 2018. The Register provides a mechanism for licensing authorities to record details of where a taxi or PHV drivers' licence has been refused, suspended or revoked, and allows licensing authorities to check new applicants against the Register. The simple objective of the NR3 is to ensure that licensing authorities can take properly informed decisions on whether an applicant is 'fit and proper', in the knowledge that another authority has previously reached a negative view on the same applicant.
- 1.7 On 31 March 2022, the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 received Royal Assent. Statutory Guidance was published on 23 May 2022. From 27 April 2023, the Act places new duties on taxi and private hire vehicle (PHV) licensing authorities in England. The Act contains provisions that require licensing authorities to record information relating to drivers' adverse licensing histories (refusals, revocations or suspensions) on a National Register. Furthermore, before a licensing authority in England decides whether to grant or renew a driver licence, it must search the Register for any entry relating to the applicant.
- 1.8 In response, the NR3S Register has been enhanced to meet these new operational requirements and rebranded as the NR3S National Register. The Secretary of State has approved the new Register and confirmed that it will be hosted and maintained by NAFN Data and Intelligence Services.

## 2.0 **The proposal**

- 2.1 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 of NAFN. Bury Council is currently a member as are all officers employed in the Licensing Unit. There are

no additional costs associated with this although NAFN membership costs approximately £1600 per annum which is paid corporately.

- 2.2 As part of the registration process, each licensing authority is required to nominate a relevant officer who will be designated as the NR3S Single Point of Contact (SPOC). The SPOC must accept relevant Data Processing and Data Sharing Agreements on behalf of their licensing authority. These agreements outline the necessary steps the authority will need to take to ensure compliance and will cover requirements under both the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA). Additionally, the nominated NR3S SPOC is the only officer who can submit requests to NAFN for deletion or amendment to NR3S records. In due course, other officers will be able to create user accounts allowing them to submit data or search the NR3S National Register, but these accounts will need to be verified/ approved by the SPOC/Manager.
- 2.3 The intention is that when a licensing authority receives an application for a licence or a renewal, the applicant's details will be checked on the Register to confirm that there is no record of any previous license having been revoked, refused or suspended elsewhere. Where a match is identified and returned to a licensing authority, it will be up to that individual licensing authority to follow up on any searches that come back with a match with the appropriate licensing authority, whose contact details will be included in the search result.
- 2.4 As specified in the 2022 Act, every entry made in the database will be retained for a period of 11 years beginning with the day on which the decision to refuse, revoke or suspend a licence was made. The NR3S system will recognise when 11 years has elapsed and automatically delete the Register entry/data. Following approval local governance policies will be updated to make reference to the NR3S retention period.
- 2.5 There is an option for licensing authorities to populate the Register with historic data of licence revocations, refusals and suspensions. Before any historic data is uploaded, the authority must write to those individuals to whom the data relates stating that the data will be uploaded at a future date. Individuals should be informed about the purposes of the data processing, the legal basis for it, and their various rights to object in this regard. These individuals should be allowed a period of not less than 28 days to respond.
- 2.6 Once implemented any affected person(s) will be provided with written notice of the Councils statutory requirement to update the NR3 system with their data. General information on the NR3 scheme will be added to the Council website and shared with Trade Representatives.

### **3.0 IMPACTS AND IMPLICATIONS:**

- 3.1 The Secretary of State has approved the new Register and confirmed that it will be hosted and maintained by NAFN Data and Intelligence Services.
  - 3.2 The NR3S register would be utilised in respect of 11 years of historical driver revocations, suspensions and refusals and all driver revocations, suspensions and refusals going forward. At this stage it is not anticipated that the proposals will have a disproportionate impact on any of Bury diversity groups.
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**Community impact/links with Community Strategy** Adoption of this proposal will permit the Licensing Service to undertake appropriate checks of the NR3S database to establish the suitability of applicants / licence holders.

**Equality Impact and considerations:**

*Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:*

- A public authority must, in the exercise of its functions, have due regard to the need to -*
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services.*

<b>Equality Analysis</b>	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
The Licensing Service has considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative impact on any of the protected characteristics.	

*\*Please note: Approval of a cabinet report is paused when the ‘Equality/Diversity implications’ section is left blank and approval will only be considered when this section is completed.*

**Assessment of Risk:**

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
Failure to adopt these proposals will result in the Council being not compliant with requirements of legislation.	Report to adopt these proposals placed before the Licensing & Safety Committee.

**Consultation:**

All licence holders of private hire / hackney drivers’ licences will be advised of the proposals and previous licence holders that were refused / revoked / suspended.

**Legal Implications:**

Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

The costs of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

Members are advised that Licences are regarded as possessions within the terms of the Human Rights Act 1998. Under the Act everyone is entitled to the peaceful enjoyment of one's possessions and so actions interfering with those possessions must be lawful, reasonable and proportionate. It is lawful to impose reasonable conditions as a way of protecting the safety of the travelling public, so long as it is not out of proportion. It is a balancing act between the public interest and the individual's rights.

Hackney carriage and private hire driver licensing is a statutory function of the Council. In undertaking those statutory functions, the Council must be satisfied that the applicant/licence holder is a "fit and proper" person to hold a licence. The adoption of the register and Guidance would enhance the decision making in terms of the fit and proper test.

Participation in NR3S is mandatory as prescribed under the Act. The policy changes recommended, if agreed by the Council, will be implemented and form the basis on which decisions are made on applications for vehicle licences received by the Council.

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**Financial Implications:**

Revenue and Capital: The Licensing Regime is a self-funded service through the licensing fees. There are no financial implications as a result of this report as the changes do not have any cost implications to the Council. There is the financial cost of annual membership of NAFN, currently £1600.00, the Councils already holds a corporate membership. So, there are no financial implications.

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**Report Author and Contact Details:**

M Bridge  
Licensing Unit Manager  
3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ      Tel: 0161 253 5208      Email: [m.bridge@bury.gov.uk](mailto:m.bridge@bury.gov.uk)

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**Background papers:**

Secretary of State letter dated 28 February 2023

**Insert/Embed letter here**

Secretary of State  
letter.pdf

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning
DBS	Disclosure & Baring Service

DPA	Data Protection Act
DVLA	Driver and Vehicle Licensing Agency
FPN	Fixed Penalty Notice
GDPR	General Data Protection Regulation
HGV	Heavy Goods Vehicle
NAFN	National Anti Fraud Network
NR3S	National Register of Refusals, Revocations and Suspensions
PCV	Passenger Carrying Vehicle
PHV	Private Hire Vehicle
SPOC	Single Point of Contact