

National Register of Taxi Licence Revocations and Refusals (NR3)

July 2021

1 Introduction

In carrying out its taxi and private hire licensing function, Stafford Borough Council's Taxi Licensing Policy and Licence Conditions Policy, will, as required by the Policing and Crime Act 2017, have regard to the *Department for Transport, Statutory Taxi and Private Hire Vehicle Standards, 2020*.

In particular, the Council is committed to sign up to the National Register of Taxi Licence Revocations and Refusals (NR3) in accordance with Paragraph 4.21 of the National Standards.

National Standards

The Local Government (Miscellaneous Provisions) Act 1976, as amended, ("the 1976 Act") places a duty on the Licensing Authority to carry out its licensing functions in respect of licensed hackney carriage and private hire drivers as well as the licensed vehicles they drive.

The Statutory Taxi and Private Hire Vehicle Standards, issued by the Department for Transport (DfT) in July 2020, assert that taxis and private hire vehicles are a high-risk environment and that minimum standards are required to regulate the taxi and private hire sector.

Although the standards focus on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained within the new standards and the DfT expects the recommendations contained within the Statutory Taxi and Private Hire Vehicle Standards document to be implemented unless there is a compelling local reason not to do so.

A link to the Statutory Taxi and Private Hire Vehicle Standards, can be found here: www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards/statutory-taxi-and-private-hire-vehicle-standards.

Data Protection

When an individual or an organisation provides information to the Council, this data is held in accordance with current UK Data Protection legislation. Data provided to the Council is used for processing applications, recording details of successful applicants, and for enforcement and crime prevention purposes.

The Council may share data with other services and with partners of the Council where required by licensing procedures and for enforcement and crime prevention purpose's, but data will not otherwise be passed on to any other party except where allowed or required by law.

While certain information may be disclosed under the Freedom of Information Act, personal data will be protected unless it is also official business data (e.g. a licensee whose registered business address is also his home).

The Council's Fair Processing Notice is attached as an Annex 1 to this policy and is also available at www.staffordbc.gov.uk/privacynotices.

2 Background

Stafford Borough Council is required to satisfy itself that those holding hackney carriage and Private Hire Vehicle (PHV) driver licences are 'fit and proper' to do so.

This is done firstly during the determination of an application for a licence, and then at any time during the currency of a licence. For example, when evidence is obtained that suggests that a licensed individual is not a fit and proper person the licensing authority is entitled to suspend, revoke or refuse to renew a licence.

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

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.

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 applicant's past behaviour is being missed and an individual might be able to get 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 carriages 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, the Local Government Association has commissioned the development of a 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 drivers' 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, NR3 does not extend to vehicle or operator licensing decisions.

Licensing authorities will be data controllers in relation to their processing of personal data in connection with NR3, including in relation to uploading information to NR3, consulting NR3, and disclosing or receiving information about individuals who appear on NR3. We have therefore worked closely with our information governance and legal teams to assure ourselves that we are taking the necessary steps to comply with data protection and other laws regarding NR3.

3 Objective of NR3

The objective of the national register is to ensure that this authority is able to 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. This will be achieved by providing a mechanism for licensing authorities to be able to check whether an individual has had a licence refused or revoked.

Each application will be considered on its own merits. This licensing authority will not fetter its decision-making or appear to have simply relied upon the previous decision of another authority. The purpose of the register is not to mean that an applicant who has been refused a licence on one occasion will always be refused.

The register will not record suspensions of drivers' licences for the following reasons:

- i. any suspension that was later lifted because the original information was false or unsubstantiated would have to be removed from the register, but any search during the period that the information remained in the register might prejudice a subsequent application
- ii. suspension should not be used as an interim step pending revocation. If the matter is serious enough to warrant a driver being prevented from driving, revocation should be the action taken; and
- iii. where a suspension period is imposed as a short-term punishment for minor transgression, this should not influence a subsequent decision, as further serious non-compliance should lead to revocation. Accordingly, any pattern of unacceptable behaviour should be identified by revocations or refusals to renew, rather than by a recurring pattern of suspensions.

For these reasons, no records of suspension should be included, including migration of historic records relating to suspension.

4 Overarching principles

This policy covers the use that this authority, Stafford Borough Council, 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.

Stafford Borough Council 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, Stafford Borough Council, 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.

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

Where 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 Stafford Borough Council's general policy on the secure retention of personal data.

5 Making a request for further information regarding an entry on NR3

When an application is made to Stafford Borough Council for the grant of a new, or renewal of, a taxi driver's licence, we will check the NR3 register.

Stafford Borough Council 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 2 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.

6 Responding to a request made for further information on a NR3 entry

When Stafford Borough Council 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. 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 has conducted 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 this 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 will 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, Stafford Borough Council, (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

Stafford Borough Council, 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 (IoL) "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 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 this 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.

7 Using any information obtained as a result of a request to another authority

When Stafford Borough Council 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 process for determining applications will be in accordance with the Council's Taxi Licensing Policy and Licence Conditions 2021 which is available at www.staffordbc.gov.uk/licensing1.

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.

FAIR PROCESSING NOTICE

HOW WE USE YOUR PERSONAL INFORMATION:

At Stafford Borough Council we take your privacy seriously and will only keep and use your personal information for reasons that the law requires or allows. We are a data controller for the personal information we hold about you in relation to the processing and renewals of your Licenses. In order to comply with data protection legislation we want to be sure you understand how we use this information.

The purpose for which your data will be used is to establish your identity and other necessary information about you which will help us determine your fitness, propriety and suitability to hold a licence or other authorisation with this authority.

If you are a hackney carriage/private hire driver, we may also use your data to enable the maintenance of a national revocations and refusals register (NR3) to strengthen hackney carriage / private hire vehicle licensing for the benefit and safety of passengers and drivers.

The introduction of this NR3 register will help other licensing authorities to make decisions on whether, or not, you are a fit and proper person to hold a licence with another authority. This 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.

The recipients or categories of recipients of the personal data in the case of the NR3 national register of refusals or revocations will be the National Anti-Fraud Network and Licensing Authorities

The following is a generic, non-exhaustive list of relevant legislation which may apply to your particular licensing application or renewal. The information we collect about you will permit us to process your application in compliance with the legislation.

- Licensing Act 2003
- Gambling Act 2005
- The Local Government (Miscellaneous Provisions) Act 1976 and 1982
- The Town Police Clauses Act 1847
- Animal Welfare Act 2006
- Dangerous Wild Animals Act 1976
- House to House Collections Act 1939
- Scrap Metal Dealers Act 2013

Stafford Borough Council is required by law to protect the public funds it administers. We may share information provided to us with other agencies involved in licence processing or licensing enforcement where the law requires or permits us to do so.

We may share information about you for the purposes of auditing and administering public funds, preventing and detecting fraud and the prevention and detection of crime. Otherwise, we will only share your data if you ask us to. We only keep this data for the time specified in our retention schedule or as required by law. In the case of your personal data which is held on the NR3 data base the retention period will be 25 years

Data protection law provides you with certain rights, however not all of these rights will be available to you in all situations, particularly where we process your information as part of one of our statutory duties. Where we are under a legal duty to use data for a particular purpose you will not have the right to prevent it being used in that way.

A full list of the rights you may have, under data protection law, is given in the 'Your Rights' section of this webpage www.staffordbc.gov.uk/PrivacyNotices. For specific enquiries regarding personal data which we process you can contact the Data Protection Officer on email: dpo@staffordbc.gov.uk or at the Civic Centre, Riverside, Stafford, Staffs, ST16 3AQ.

If you wish to complain about how your personal information has been handled by Stafford Borough Council, then please contact the Data Protection Officer in the first instance using the details above. If you are not satisfied you can submit a formal complaint to the Council via our website www.staffordbc.gov.uk/Complaintsprocedure.

Finally you can complain to the Information Commissioner's Office at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 0303 123 1113 or you can visit their website at www.ico.org.uk. You can also find details of how we handle your personal information by visiting www.staffordbc.gov.uk/data-protection.

APPENDIX 2

Information disclosure form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

(For completion by requestor authority)

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: Refusal / revocation

Other details for this record:

Address:

Driving licence No

NINO:

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 / 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.

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.

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 attached to this document/can be accessed at www.staffordbc.gov.uk/National-Register-of-Taxi-Licence-Revocations-and-Refusals-NR3.

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

Declaration by providing authority

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 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