

Meeting	LICENSING COMMITTEE
Time/Day/Date	6.30 pm on Wednesday, 21 November 2018
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

AGENDA

Item	Pages
1. APOLOGIES FOR ABSENCE	
2. DECLARATIONS OF INTEREST	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is 'Pecuniary' or 'Non-Pecuniary'.	
3. MINUTES OF PREVIOUS MEETING	
To confirm and sign the minutes of the meeting held on 3 October 2018.	3 - 6
4. REVIEW OF LICENSING ACT 2003 STATEMENT OF LICENSING POLICY / CUMULATIVE IMPACT POLICY	
Report of the Environmental Health Team Manager	7 - 56
5. NATIONAL REGISTER OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE REVOCATIONS AND REFUSALS (NR3)	
Report of the Environmental Health Team Manager	57 - 74

Circulation:

Councillor R Ashman (Chairman)
Councillor J Clarke
Councillor N Clarke
Councillor J G Coxon
Councillor D Everitt
Councillor T Eynon
Councillor L Goacher
Councillor J Hoult
Councillor G Jones
Councillor K Merrie MBE
Councillor P Purver
Councillor V Richichi
Councillor A C Saffell
Councillor S Sheahan
Councillor N Smith (Deputy Chairman)
Councillor M Specht
Councillor M B Wyatt

MINUTES of a meeting of the LICENSING COMMITTEE held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 3 OCTOBER 2018

Present: Councillor R Ashman (Chairman)

Councillors J Clarke, J G Coxon, D Everitt, T Eynon, L Goacher, R Johnson (Substitute for Councillor N Clarke), A C Saffell, S Sheahan, N Smith, A V Smith MBE and M Specht

Portfolio Holder: Councillor A V Smith MBE

Officers: Mrs L Arnold, Mr A Cooper, Mr L Mansfield and Mrs R Wallace

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors N Clarke, J Hoult, G Jones, K Merrie, P Purver and V Richichi.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF PREVIOUS MEETING

Consideration was given to the minutes of the meeting held on 21 February 2018.

It was moved by Councillor M Specht, seconded by Councillor J Clarke and

RESOLVED THAT:

The minutes of the meeting held on 21 February 2018 be approved and signed by the Chairman.

4. REVIEW OF GAMBLING ACT STATEMENT OF LICENSING POLICY

The Environmental Health Team Manager presented the report to Members, highlighting the consultation undertaken and the proposed changes regarding the Local Area Profile at section 11 of the draft policy. He also apologised that the draft policy document at appendix 1 did not include the usual track changes, this was due to a technical error.

In response to a question of clarity from Councillor J Clarke, the Environmental Health Team Manager explained that the number of gambling premises in Coalville town centre should be five rather than six as printed in the report, this was due to the recent closure of an adult gaming centre in the area. This would be corrected in the final report to Council.

Councillor S Sheahan raised concerns regarding online gambling and the fact that there was no reference to it within the report. The Environmental Health Team Manager explained that this was not a function of the District Council and was regulated by the Gambling Commission.

Councillor T Eynon understood that there was an absence of evidence to suggest that there were any problems with gambling activity in North West Leicestershire but in her opinion there were two very important organisations that had not been consulted. These were Nottingham Health Care Trust and Turning Point. She believed that they would be able to provide more accurate information on the issue. The Environmental Health Team Manager explained that the team had consulted all those advised to, but took the comments on board and agreed to add the organisations to the list of consultees in future.

Councillor D Everitt also suggested the addition of the Citizens Advice Bureau to the list of consultees. He felt that the picture given by the current consultees was a superficial one as he believed many of the problems with gambling had gone underground with the availability of online gambling.

The Environmental Health Team Manager reported that GambleAware had commissioned a piece of work, due to be completed in 2019, regarding Local Area Profiles. If the study revealed a problem with gambling for North West Leicestershire, the local profile would be updated accordingly.

Councillor N Smith asked if any of the consulted organisations ever reported individuals with gambling problems. The Licensing Team Leader reported that very few complaints were received regarding gambling establishments and this year there had been none at all. Councillor N Smith commented that the lack of reports from the premises themselves on any problems due to gambling activity, could possibly be due to the amount of money being made from customers affected. The Licensing Team Leader assured Members that licence holders had a duty of care to assist people with obvious problems.

Councillor M Specht referred to a recently reported national problem regarding the usage of fixed odds betting terminals. He commented that he had visited a number of premises and he did not see any customers constantly sat at the machines. He was pleased that the report supported this view as there did not seem to be a problem of this nature in North West Leicestershire.

It was moved by Councillor J G Coxon, seconded by Councillor J Clarke and

RECOMMENDED THAT:

Council approve the Statement of Licensing Policy at its meeting on 13 November 2018.

RESOLVED THAT:

The authority to update the Local Area Profile be delegated to the Head of Community Services in consultation with the Portfolio Holder.

5. LICENSING TEAM SERVICE UPDATE

The Licensing Team Leader presented the report to Members, summarising the work delivered by the team in regards to policy review, street trading, taxi vehicles and drivers, and public events. Further to the report he updated Members that the first time pass rate for vehicles was currently up to 70 percent and that another licence revocation had occurred the previous week due to the driver's inappropriate use of pepper spray on a passenger.

In relation to the granting of taxi driver licences, Councillor R Johnson asked if there was a way to cross reference with other Council's regarding past history. The Licensing Team Leader reported that there was a register currently being compiled across all councils and North West Leicestershire was due to be signed up by the end of the year.

Councillor N Smith was pleased that the Council was being included on the national register as he felt it was a good thing to be able to check a potential driver's history. He also raised concerns regarding the inappropriate driving of licensed drivers in Ashby as it was very dangerous and asked if there was anything that could be done to tackle it. The Licensing Team Leader reported that a lot of monitoring had been undertaken in Ashby with action being taken on drivers. He explained that there was a warning system in place to address the problem but there were no complaints at the moment.

Councillor N Smith urged Members to report any incidents regarding the behaviour of taxi drivers as he believed it made a real difference.

The Community Services Portfolio Holder thanked officers for all of the work undertaken during the World Cup as it was a very difficult time due to the issues in Ashby when England were playing. She felt that the closure of Market Street and the advice given to shop owners regarding early closures worked very well. The Licensing Team Leader reported that the conditions placed on the White Heart Public House during the World Cup would remain on the licence for when events such as those were held again. The Chairman also thanked the Councillors who agreed to sit on the hearings at very short notice to resolve the issues in Ashby during that time.

Councillors M Specht and A C Saffell congratulated the officers and police for the work undertaken in Ashby during the World Cup as it was a very positive outcome with a good example of joint working.

Councillor J G Coxon also congratulated officers and felt that they had reacted well in a very short space of time. He asked if other premises had been reviewed to counteract any similar problems in the future. The Environmental Health Team Manager explained that the process to review a licence was normally instigated by an incident and he would not look at adding conditions to a licence where there was a good history of compliance. He added that at the time of the incidents in Ashby, all of the other licensed premises were visited and all of them were compliant.

Councillor A C Saffell asked if officers were still unable to access social media as this was where complaints tended to be left rather than being reported to officers. The Legal Advisor explained that it was possible to gain access but it had to be authorised through the ICT team which was not always a quick process. However, she assured Members that the Legal Team did have access to social media and anything relevant was passed to officers.

Regarding the conduct of taxi drivers, Councillor M Specht encouraged Members to take photographs and report it to officers. He explained that he had recently encountered a taxi driver parked in a disabled bay on more than one occasion and even though he had spoken to the driver about it and threatened to report him, he was still doing it. He had now reported the taxi driver to the Licensing Team who had already received many complaints. The Licensing Team Leader provided an update that the driver had now received a final warning and had been advised that anything further would result in being brought before a Sub Committee.

The Chairman thanked officers for the report and informed Members that in future, a service update would be provided by email rather than considered by the Committee.

It was moved by Councillor A C Saffell, seconded by Councillor J G Coxon and

RESOLVED THAT:

The report be noted.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 7.23 pm

This page is intentionally left blank

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 21 NOVEMBER 2018

Title of report	REVIEW OF STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT ASSESSMENT
Contacts	<p>Portfolio Holder - Councillor Alison Smith MBE 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Environmental Health Team Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Licensing Team Leader 01530 454844 andy.cooper@nwleicestershire.gov.uk</p>
Purpose of report	To consult with the Licensing Committee on the draft Statement of Licensing Policy and Cumulative Impact Assessment
Council Priorities	Business & Jobs Homes and Communities
Implications:	
Financial/Staff	There are no additional financial or staffing implications
Link to relevant CAT	Business CAT
Risk Management	There is a risk that the council's Statement of Licensing Policy is challenged. Legal advice has been sought in its preparation to mitigate the risk of challenge
Equalities Impact Assessment	An Equality Impact Assessment has already been undertaken and issues identified have been actioned
Human Rights	Protocol 1, Article 1 of the Human Rights Act 1998 provides that everyone is entitled to the peaceful enjoyment of his possessions except in the public interest and subject to the conditions provided by the law
Transformational Government	This relates to the new ways in which councils are being asked to deliver their services
Comments of Head of Paid Service	The report is satisfactory

Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	As required under section 5(3) of the Licensing Act 2003 – Listed at Paragraph 2
Background papers	Home Office – Guidance issued under Section 182 of the Licensing Act 2003 – April 2018 Licensing Act 2003 – Statement of Licensing Policy – Issue 6
Recommendations	<p>THAT LICENSING COMMITTEE:</p> <ol style="list-style-type: none"> 1. COMMENT ON THE STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT ASSESSMENT 2. RECOMMEND APPROVAL OF THE STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT ASSESSMENT TO COUNCIL AT ITS MEETING ON 26 FEBRUARY 2019 3. RECOMMEND THE RETENTION OF THE CUMULATIVE IMPACT POLICY RELATING TO ASHBY DE LA ZOUCH TOWN CENTRE TO COUNCIL AT ITS MEETING ON 26 FEBRUARY 2019

1.0 BACKGROUND

- 1.1 Section 5 of the Licensing Act 2003 requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years.
- 1.2 A statement of licensing policy explains how the licensing authority will carry out its role under the Licensing Act 2003. The statement can be used as follows:
- As a guide by members of the licensing authority in their decision making.
 - To inform applicants about how applications will be viewed and how a licensed premises is likely to be able to operate within the area of the licensing authority, albeit that each application will be examined and considered on an individual basis.
 - To inform residents and businesses about how applications will be viewed and how their needs will be addressed.
 - To support decisions made by the licensing authority when these decisions are challenged in a court of law.
- 1.3 The current policy (issue 6) was determined by Council on 25 March 2014 and came into force on 26 March 2014 and shall remain valid until 25 March 2019 unless amendments are necessary before this date.

- 1.4 The scope of the review has included both the policy statement as a whole and the cumulative impact assessment relating to an area of Ashby de la Zouch town centre.

2.0 CONSULTATION PROCESS

- 2.1 Before a licensing authority can publish its policy it must consult with bodies/persons listed in section 5(3) of the 2003 Act. They are as follows:
- Chief officer of police for the area.
 - The fire & rescue authority for the area.
 - Persons/bodies representative of local holders of premises licences.
 - Persons/bodies representative of local holders of club premises certificates.
 - Persons/bodies representative of local holders of personal licences.
 - Persons/bodies representative of local holders of businesses and residents in its area.
- 2.2 The consultation period commenced on 7 June 2018 and ended on 24 August 2018.
- 2.3 A letter was sent to consultees listed at paragraph 2.1 referring them to a consultation document detailing structured questions relating to the special policy on cumulative impact and a draft statement of licensing policy.

3.0 PROPOSED CHANGES TO CURRENT POLICY

- 3.1 The draft policy sent to all consultees contained the following amendments:
- The profile of the district has been updated (paragraph 1.1)
 - The draft policy sets out criteria, considerations and conditions which applicants should bear in mind when putting together their application. Minor amendments have been made to the content of this guidance (paragraphs 4,5,6 and 7)
 - The further explanation of the purpose of an Early Morning Alcohol Restriction Order (paragraph 8)
 - Retention of the current cumulative impact policy in Ashby Town Centre – amendments to the wording of the cumulative impact policy (paragraph 10)
 - Amendment to the section on Temporary Permitted Activities (Temporary Event Notices) to reflect legislative changes (paragraph 18)
 - Further clarification on the interaction between licensing and development control (paragraph 19.2)
 - Minor changes to wording of the equalities section (paragraph 19.4)
 - Minor changes to the wording of the list of responsible authorities listed at Appendix 3 of the policy

4.0 REPRESENTATIONS

- 4.1 Both Castle Donington Parish Council and Measham Parish Council confirmed that they did not have any comments to make on the draft policy. Leicestershire Police submitted comments and data relating to the retention of the cumulative impact policy.
- 4.2 A draft policy taking into account all comments made by consultees is at **Appendix 1**.

5.0 CUMULATIVE IMPACT ASSESMENT

- 5.1 A review of the cumulative impact assessment has been carried out. Fresh updated evidence has been received from Leicestershire Police. A copy of the cumulative impact assessment is attached at **Appendix 2**

5.1.1 Types of Premises

Although the overall crime data does not identify premises types, a list of crime reports relating to the night time economy in Ashby de la Zouch town centre does identify the following premises types: nightclub, vertical drinking public houses and late night refreshment providers.

The cumulative impact policy cannot be absolute. Officers will continue to allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives will be granted. After receiving relevant representations officers will consider whether the council would be justified in departing from the cumulative impact policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or theatre may not.

5.1.2 Hours

Data submitted from Leicestershire Police shows a spike in violent crime in Ashby town centre during the evening and early morning.

5.1.3 Area covered by policy

Leicestershire Police has suggested the area be extended to include the Wetherspoons Shoulder of Mutton public house on Derby Road.

Leicestershire Police records have identified 14 incidents either inside or associated with the public house since 2012. The police have stated that the public house is likely to have a major impact on the drinking habits of local people and the premises abuts the zone.

An email was sent to Wetherspoons seeking comments on the request from Leicestershire Police to extend the cumulative impact zone to include the Shoulder of Mutton public house. A response to the consultation email has not been received. Should a response be received before committee it will be shared with members via an update.

- 5.2 Having consulted all bodies/persons listed at paragraph 2.1 above and considered the comments and crime data submitted by Leicestershire Police a conclusion has been made

that it is likely that granting further premises licences and/or club premises certificates in the area detailed at **Appendix 1** of the policy, would be inconsistent with the authority's duty to promote the licensing objectives.

Recommendation - It is recommended:

That the special policy relating to cumulative impact in Ashby de la Zouch town centre be retained;

That the policy applies to applications for new premises licences or club premises certificates or variations;

That the policy applies to premises of all types and characteristics (subject to paragraph 5.1.1);

That the policy applies to licensed premises between 20:00 and 06:00;

That the policy relates to premises within the area defined at Appendix 1 of the draft policy

6.0 APPROVAL PROCESS

- 6.1 A procedural irregularity by a licensing authority in relation to the determination of its policy may be subject to a challenge by way of Judicial Review to the Administrative Court. To mitigate the risk of challenge the review and determination of this policy has been carried out in accordance with the Home Office guidance issued under Section 182 of the Licensing Act 2003 issue April 2018.
- 6.2 Members confirmation is sought that the draft Statement of Licensing Policy may be taken to Council on 26 February 2019 for final approval and publication.

This page is intentionally left blank

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

Licensing Act 2003 Statement of Licensing Policy

**Effective Period:
March 2019 to March 2024**

Issue 7

Approved by the Council at its meeting on INSERT DATE

CONTENTS

	Page No.
1. Introduction	5
1.1 Profile of the District	5
1.2 Purpose of the Policy	5
1.3 History	6
1.4 Consultation	6
1.5 Licensable Activities	6
1.6 Live Music	6
2. Fundamental Principles	7
2.1 Background	7
2.2 The Licensing Objectives	7
2.3 Balance	7
2.4 Extent of Control	8
2.5 Determination of Applications	8
2.6 Effective Service	8
2.7 Licensing Authority (Responsible Authority Role)	9
3. Policies Supporting Each of the Four Licensing Objectives	11
4. Prevention of Crime and Disorder	11
4.1 The Policy	11
4.2 Criteria	11
4.3 Considerations	11
4.4 Conditions	11
5. Public Safety	12
5.1 The Policy	12
5.2 Criteria	12
5.3 Consideration	12
5.4 Conditions	13
6. The Prevention of Public Nuisance	14
6.1 The Policy	14
6.2 Criteria	14
6.3 Considerations	14
6.3.1 Noise and Vibration	14
6.3.2 Eating, Drinking and Smoking Outside Premises	15
6.3.3 Other Environmental Impacts	15
6.4 Conditions	16
7. The Protection of Children from Harm	17
7.1 The Policy	17

7.2	Criteria	17
7.3	Considerations	17
7.4	Conditions	18
8.	Early Morning Alcohol Restriction Officers (EMRO)	20
9.	Late Night Levy	20
10.	Special Policy on Cumulative Impact (Cumulative Impact Zone)	21
11.	Licensing Hours	22
12.	Lapsed Licences, Insolvency and Death	22
13.	Variation of Licences	22
14.	Transfer of Licences	23
15.	Provisional Statements	23
16.	Review of Licences	23
17.	Personal Licences	24
18.	Permitted Temporary Activities	25
19.	Integrating Strategies	26
19.1	Safer North West Partnership	26
19.2	Planning	27
19.3	Building Control	27
19.4	Promotion of Equality	27
19.5	Disabled Access	27
19.6	Transport	27
20.	Related Policies	27
20.1	Street Trading Places	27
20.2	Sex Establishment Venues (SEV)	28
21.	Avoiding Duplication	28
22.	Standardised Conditions	28
23.	Enforcement	29
24.	European Union Services Directive	29
25.	Delegation of Functions	30
26.	Appeals	30
27.	Fees	30

28.	Period of Validity and Review	30
29.	Contacts	31
	Document History	31
Appendix 1	Map of Ashby de la Zouch	32
Appendix 2	Delegation of Licensing Functions	33
Appendix 3	Responsible Authority Contact Details	34

DRAFT

1. Introduction

1.1 Profile of the District

North West Leicestershire District covers an area of 27,933 hectares. The principal town is Coalville and the other main settlements are Ashby de la Zouch, Castle Donington, Ibstock, Kegworth and Measham.

According to [Office for National Statistics Census](#) data (2016¹), North West Leicestershire has a population of 98,436². The proportion of young people (0-14 years) is 17.85 per cent and is close to regional and national averages. The District has 19.77.4 per cent of the population above pension age. The black and minority ethnic population is 2.4 per cent; this compares with 10.7 per cent for East Midlands and 14.6 per cent for England.

The Council's vision statement is "North West Leicestershire will be a place where people and businesses feel they belong and are proud to call home".

The Council recognises that the entertainment and leisure industry and shopping contribute to the Districts urban and rural economies. These have a part to play in attracting tourists and visitors and are major employers. There were 3,400 tourism-related jobs in 2015³. The district is home to a number of major attractions including Donington Park Race Circuit, [Snibston Discovery Park](#), National Forest, Conkers, [Moira Furnace, the 1620s House](#) and Ashby Castle.

Pubs and restaurants are an important part of village life, and contribute to the vitality of the Districts towns, together with the arts and entertainments venues throughout the District.

The District has 369⁴ licensed premises. These include approximately 130 pubs, bars and wine bars, 41 restaurants licensed to serve alcohol, 37 night clubs and dance venues. 206⁵ premises are licensed as a late night refreshment house, these premises include takeaways, pubs and restaurants. There are other premises which are licensed which include other cultural venues and shops.

1.2 Purpose of the Policy

This Statement of Licensing Policy explains how the Licensing Authority will carry out its role under the Licensing Act 2003, (the Act). The Licensing Authority will keep this policy under review and may make revisions to the document following consultation with the bodies outlined in paragraph 1.4 below.

It will also:

- Be used as a guide by members of the Licensing Authority in their decision making.
- Inform applicants about how applications will be viewed and how a licensed premise is likely to be able to operate within the area of the Licensing Authority, albeit that each application will be examined and considered on an individual basis.
- Inform residents and businesses about how applications will be viewed and how

their needs will be addressed.

- Be used to support decisions made by the Licensing Authority when these decisions are challenged in a court of law.

1.3 History

The first Statement of Licensing Policy issued by North West Leicestershire District Council came into force on 7 January 2005. It was revised on 8 November 2005 to reflect the adoption of a Special Policy in Ashby de la Zouch and further minor amendments. Issue 3 came into force on 7 January 2008 with minor amendments. Issue 4 with further amendments came into force on the 15 January 2008. Issue 5 of the policy was introduced on 7 January 2011. Issue 6 of the policy was introduced on 26 March 2014 and will remain in place until 25 March 2019.

1.4 Consultation

In developing this Statement the Licensing Authority has consulted with the bodies set out below, and has taken account of their views:

- Police.
- Fire authority.
- [Director of Public Health](#)
- Persons/bodies representative of local premises licences holders.
- Persons/bodies representative of local club premises certificate holders.
- Persons/bodies representative of local personal licence holders.
- Persons/bodies representative of businesses and residents in North West Leicestershire.

1.5 Licensable Activities

Licensable activities are:

- The sale of alcohol by retail.
- The supply of alcohol by or on behalf of a club, or to the order of, a member of the club.
- The provision of regulated entertainment.
- The provision of late night refreshment.

1.6 Live Music

The Live Music Act 2012 came into force on 1st October 2012.

Its main aim was relax the licensing burden on those licence holders staging or looking to stage live music at their venue.

It removes the licensing requirements for:

- Amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises.
- Amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).
- Unamplified live music between 8am and 11pm in all venues.

It is possible to reinstate or impose conditions about live music following a review of a premises licence or club premises certificate authorising premises to supply alcohol for consumption on the premises.

The Live Music Act also removes licensing requirements for the provision of entertainment facilities.

In addition, it has widened the licensing exemption for music integral to a performance of Morris dancing or similar, so that the exemption applies to live or recorded music instead of unamplified live music.

Although the changes to the law and the associated benefits to local musicians and their supporters are to be welcomed there is still a requirement that any music should not be loud enough as to cause a nuisance to neighbours.

2. Fundamental Principles

2.1 Background

This Statement of Licensing Policy sets out how the Licensing Authority will carry out its functions under the Licensing Act 2003. However, all decisions relating to licences will be made on the merits of the individual case, having regard to this policy as part of the decision making process.

The Act requires applicants to consider carefully this policy when drafting their applications.

2.2 The Licensing Objectives

The Licensing Authority will carry out its functions with a view to promoting the licensing objectives. The licensing objectives, which carry equal importance, are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

2.3 Balance

The Licensing Authority will seek to achieve a balance between leisure/entertainment and the needs of residents and other businesses for an acceptable environment and quality of life.

This Policy will not undermine the right of any individual to apply for a variety of permissions and to have any such application considered on its individual merits. Nor will it override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Licensing Act 2003.

The Human Rights Act 1998, incorporating the European Convention on Human Rights, makes it unlawful for a Local Authority to act in a way, which is incompatible with a Convention right. The Licensing Authority will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following relevant provisions of the European Convention on Human Rights:

Article 6 – In the determination of civil rights and obligations every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 – Every person has the right to respect for his home and private and family life.

Article 1 of the First Protocol – Every person is entitled to the peaceful enjoyment of his or her possessions.

2.4 Extent of Control

Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. The conditions attached to various authorisations are focused on relevant matters that are within the control of the licence holders and others with relevant authorisations. This means those matters occurring at, and in the vicinity of premises, and the direct impact they have on nearby residents and businesses. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case.

Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. However, the Licensing Authority expects every holder of a licence, certificate or authorisation to be responsible for minimising the impact of the activities and anti-social behaviour by their patrons within the immediate vicinity of their premises and will require licence holders to demonstrate that they have taken appropriate action.

2.5 Determination of Applications

When the Licensing Authority receives an application it will initially determine whether the application has been made properly in accordance with the provisions of the Licensing Act 2003 and the relevant regulations. Amongst other things the Licensing Authority will consider whether the application has been properly advertised in accordance with the regulations.

All applications for new premises licences and variations need to be supported by an operating schedule. The schedule must specify (amongst other things) the steps which the applicant proposes to promote each of the four licensing objectives. Applicants are advised to discuss their application with a member of the licensing team and to have regard to sections 3, 4, 5 and 6 of this policy when completing their application form.

A hearing will not be required where an application for a new premises licence, club premises certificate or variation has been properly made and no responsible authority

or other persons has made a representation. In these cases the Licensing Authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule submitted with the application and relevant mandatory conditions contained in the Licensing Act 2003.

The responsible authorities who must be notified of applications and are entitled to make representations to the Licensing Authority in relation to an application are:

- Chief Officer of Police.
- Local Fire & Rescue Authority.
- Licensing Authority.
- Relevant enforcing authority under the Health & Safety at Work etc Act 1974.
- Local Authority with responsibility for Environmental Health.
- Local Planning Authority.
- A body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm.
- Director of Public Health.
- Local Trading Standards Department.
- Home Office Immigration Enforcement (on behalf of the Secretary of State).
- Environment Agency (vessels only)
- Canal & River Trust. (vessels only)

The Local Authority name/body for each of the Responsible Authorities is provided at Appendix 3. Current contact details including postal address and telephone contact numbers is provided on the Councils website.

'Other Persons' are the bodies or individuals who are entitled to make representations to the Licensing Authority on applications and consist of:

- Any person;
- A body representing persons;
- A person involved in a business;
- A body representing persons involved in such businesses;

In order to be accepted by the Licensing Authority a representation must be relevant. A representation will only be relevant if it relates to the likely effect of the application on the promotion of at least one of the licensing objectives

A representation by a Responsible Authority or 'other persons' cannot be accepted if it is frivolous or vexatious. The Licensing Authority will determine whether any representation is frivolous or vexatious on the basis of the ordinary meaning of those words and the statutory guidance.

Where, however, there are relevant representations to an application or variation, then a hearing before a Licensing Sub-Committee will normally follow. At the hearing the Sub-Committee must, having regards to the representations, take such steps as it considers appropriate to promote the four licensing objectives. These may include refusing the application either in full or in part or adding to or modifying the conditions proposed in the operating schedule.

2.6 Effective service of applications

Where reference is made to working days this is defined at Section 193 of the Licensing Act as 'any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealing Act 1971 in England and Wales.

For the purposes of this policy non-statutory closures of the Council are not considered to be working days.

The Councils working day is 08:45 to 17:00. Applications received after 17:00 shall be deemed to be received on the following working day.

The Council accepts the following methods of service:

- Postal
- Electronic submission (online GOV.UK website)
- Electronic submission (email)

An application that is submitted electronically during the course of a working day will be deemed as received at the time of receipt. This shall include applications submitted online or by email.

An application that is submitted electronically outside of the working day will be deemed as being received on the first working day following submission.

An application submitted by post will be served on the day of receipt or if there is no receipt deemed as if served on the second working day after being placed in a postal system. Proof of service will be required to confirm the date of posting.

Where an electronic application is received by the Council there is a requirement for the Council to serve a copy on all Responsible Authorities. Service can be made both by email and by post with the preferred method of service being by email. The above definitions of 'service' will apply. An application for a review falls outside of this process. This is explained further within the Statutory Guidance.

2.7 Licensing Authority (Responsible Authority Role)

The Licensing Authority is included in the list of responsible authorities and in common with the other responsible authorities it is for the Licensing Authority to determine when it considers it appropriate to act in that capacity.

The Licensing Authority will not make a representation or apply for a review at the request of another Responsible Authority or Other Person.

There may be occasions when the Licensing Authority may decide to make a representation or apply for a review based on evidence and information collated from other Responsible Authorities even though those other Responsible Authorities have chosen not to make a representation.

The Licensing Authority is unlikely to intervene where the basis for the intervention falls within the remit of another Responsible Authority. For example, the police should make representations where the representations are based on concerns about crime and disorder.

Where the Licensing Authority does make representations it will ensure that there is a proper separation of responsibilities. The Licensing Officer preparing papers for a

sub-committee hearing will be different to the Licensing Officer making the representations on behalf of the Responsible Authority. The Licensing Officer acting for the Responsible Authority will not be involved in the administrative process of the application or review and will not discuss the merits of the case with those involved in making the determination by the Licensing Authority. Communication between these Licensing Officers in relation to the case will remain professional and consistent with communication with other Responsible Authorities.

The Licensing Officer administering the application will be allowed to conduct negotiations between the Licensing Officer making the representation and the applicant.

3. Policies Supporting Each of the Four Licensing Objectives

Applications for the grant or variation of a licence or certificate must be accompanied by an operating schedule that includes the steps that the applicant proposes to take to promote the licensing objectives. These policies are intended to help applicants by setting out the **criteria** and **considerations** that they should bear in mind when drawing up the operating schedule. The criteria, because they relate to the licensing objectives, will apply to all applications to some degree; the considerations listed may not necessarily apply, or apply equally, to all applications. The list contains considerations that Responsible Authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review. Applicants for licences are recommended to discuss their proposals with the Responsible Authorities prior to submitting an application. This will enable them to obtain advice on the production of their operating schedule and may avoid representations and the need for a hearing.

4. Prevention of Crime and Disorder

4.1 The Policy

To prevent crime and disorder, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews. The Licensing Authority will look to the police as the main source of advice on crime and disorder. The Licensing Authority will also seek to involve the NWL Community Safety Partnership.

4.2 Criteria

Whether the premises makes or will make a significant contribution to levels of crime and disorder, and whether the Operating Schedule is based on an adequate risk assessment, undertaken by the applicant, of the likelihood of crime and disorder occurring as a result of the grant of the application.

4.3 Considerations

The levels of crime and disorder in and around the venue.

The proposals contained in the operating schedule.

The level of compliance with conditions on existing licences.

4.4 Conditions

The Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003 (as amended) (The Guidance) sets out matters that may be relevant to the imposition of conditions relating to crime and disorder on licensed premises. The Licensing Authority will tailor appropriate conditions for premises licences and club premises certificates. The seeking of and any imposition of conditions and their extent will depend upon the risks of crime and disorder at the particular premises.

In the context of this licensing objective the essential purpose of a licence or certificate is to regulate the behaviour of people while on, or in the immediate vicinity of the premises and as they seek to enter or leave. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct control of the licence holder and their staff or agents. Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises. Licence conditions that are considered appropriate for the prevention of illegal working might include requiring a premises licence holder to undertake right to work checks on all staff employed and that a copy of any documentation checked is retained at the licensed premises.

The Licensing Authority may consider if any steps are appropriate to promote the prevention of crime and disorder. It will also consider representations made by Responsible Authorities that conditions are applied to licences to require those steps.

The Licensing Authority will seek to co-operate with the Security Industry Authority (SIA) as far as possible.

The inclusion of radio links and ring-around phone systems will be considered an appropriate condition for public houses, bars and nightclubs operating in town centre leisure areas with a high density of licensed premises.

Conditions relating to the management competency of designated premises supervisors will only be justified as appropriate where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

When preparing their operating schedules, applicants are encouraged to consider including the following items of best practice:

- Prohibiting the sale of alcohol in glass bottles for consumption on the premises to prevent their use as weapons.
- Prohibiting alcohol in open containers being taken from premises - This approach will discourage drinking in the streets and will also prevent the use of these containers as offensive weapons.
- Consider using drinking vessels made of plastic or toughened glass.
- Prohibiting irresponsible drinks promotions - The Licensing Authority will support an approach to the marketing of alcohol and the management of licensed premises that promotes responsibility in the consumption of alcohol.
- Consider the provision of CCTV surveillance equipment particularly in town centre locations and other large venues. The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside, licensed premises. Should you deem it appropriate to install CCTV at your premises it is suggested that any system should be installed and maintained on

- advice from the Leicestershire Police Crime Prevention Officer.
- Warning signs about crime prevention measures.
 - Consider the provision of text pagers to connect persons employed at premises, particularly in town centre locations, to the police.
 - Appropriate measures to prevent overcrowding in premises or parts of the premises.
 - The provision of staff to control admission and to control persons inside the premises. When such staff are engaged they must be licensed by the Security Industry Authority.
 - Appropriate measures to prevent the supply and consumption of illegal drugs, including any search procedures and entry policies.

The above items of best practice need only be included in an operating schedule where relevant to the premises. In addition to the above items of best practice applicants are also encouraged to refer to the Council's pool of licence conditions when producing an operating schedule.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of this licensing objective at their particular premises.

5. Public Safety

5.1 The Policy

To promote public safety, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

5.2 Criteria

Whether appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant Responsible Authority and to the Licensing Authority, that demonstrate that the public will be safe within and in the vicinity of the premises.

5.3 Considerations

Whether the premises has undertaken a risk assessment and identified the maximum number of people who can be present in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency.

Whether there are procedures proposed to record and limit the number of people on the premises.

Whether patrons can arrive and depart from the premises safely.

Whether the premises will use equipment or special effects that may affect public safety (e.g. vehicles, pyrotechnics, strobe lights, smoke machines, temporary structures etc).

Whether due regard has been given to the measures outlined in the 'Safer Clubbing' guide published by the Home Office – January 2002, in applications for facilities for

music and dancing. The key areas identified are:

- Prevention of overcrowding
- Air conditioning and ventilation
- Availability of drinking water
- Affordable cloak rooms
- Further measures to prevent patrons overheating

Whether there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services.

5.4 Conditions

The Guidance sets out matters which relate to conditions on public safety, and includes a Safer Clubbing checklist. These will be used to tailor appropriate conditions for premises licences and club premises certificates.

The Licensing Authority may consider if any steps are appropriate to promote public safety. It will also consider representations made by Responsible Authorities that conditions be applied to licences to require those steps.

When preparing their operating schedules, applicants are expected to consider the following items of best practice:

- Checks on equipment at specified intervalsFire safety.
- Ensuring appropriate access for emergency services such as ambulances.
- Good communication with local authorities and emergency services.
- Equipment and facilities to be maintained in accordance with recognised standards.
- Ensuring appropriate limits on the maximum capacity of the premises with reliable methods to count and control the number of persons on the premises.
- Adequate levels of door supervision to control access to and egress from premises in order to ensure public safety.
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation such as taxi companies.
- Provision of training for current and future staff in matters relating to public safety, where not already required by other legislationEnsuring the presence of trained first aiders on the premises and appropriate first aid kits.
- Maintaining and making available a record of inspections, pre-opening and during performance, of fire doors, escapes, and appliances and of the number of people on the premises.
- Ensuring appropriate and frequent waste disposal, particularly glass bottles.

- Prevention of injury – Consider a policy of using plastic, polycarbonate or toughened glass.
- Ensuring that floors are kept from becoming slippery from spillages or condensation.
- Measures to prevent climbing onto ledges, balconies and speakers.
- Measure to keep sound levels below levels where damage to the hearing of staff and customers is likely to occur.
- Measures to reduce the risk of dancers and others overheating (chill-out rooms, affordable cloakrooms, free water, breaks from fast dance rhythms, identifying people who may be in distress).
- Provision of facilities for people who are taken ill or injured to contact friends or family, to recover, or be kept safe while awaiting medical assistance.

The above items of best practice need only be included in an operating schedule where relevant to the premises. In addition to the above items of best practice applicants are also encouraged to refer to the Council's pool of licence conditions when producing an operating schedule. If applicants elect not to include best practice items in the operating schedule, they are strongly advised to include information explaining the reason for their decision. This might be because a risk assessment has shown that the step is not appropriate. If such information is not included, it is more likely that a relevant representation will be made, leading to the cost and delay of a hearing before a licensing sub-committee.

Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of this licensing objective at their particular premises.

6. The Prevention of Public Nuisance

6.1 The Policy

To prevent public nuisance the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

6.2 Criteria

The potential for nuisance associated with the style, characteristics and activities of the business to be carried on at the premises and the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation and where there is a mixed commercial / residential use with residential accommodation in the proximity of the premises.

Under the Act, "public nuisance" retains its broad common law meaning. Public

nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as a major disturbance affecting the whole community. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

6.3 Considerations

6.3.1 Noise and Vibration

Whether oOperating sSchedules contain adequate measures to prevent noise and vibration, generated from within the premises, outside it, or from an open site, that may cause disturbance to people in the vicinity. Stricter conditions will be imposed on premises licences in areas that have denser residential accommodation or have residential accommodation close to them.

Measures to limit noise and vibration

Applicants will be expected to have considered the inclusion of measures in their Operating Schedules that make adequate provision to:

- Restrict the generation of noise within the premises and from activities associated with the premises in the vicinity, or from an open air site.
- Limit the escape of noise from the premises or open air site.
- Restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and whilst sleeping.
- Minimise and control noise from customers arriving at the premises, or open air site outside it and departing from it.
- Minimise and control noise from staff, contractors, and suppliers and their activities.
- Minimise and control noise from vehicles associated with and providing services to the premises or open air site and their customers.
- Monitor the noise levels and its impact.
- Make a contact number available to any person wishing to report noise disturbance.

6.3.2 Eating, Drinking and Smoking Outside Premises

Whether people standing or sitting outside the premises are likely to cause obstruction or other nuisance.

Whether the premises are under or near to residential accommodation.

The hours of sale of alcohol in open containers or food for consumption outside the premises.

Measures to make sure that customers move away from outside premises when such sales cease.

Measures to collect drinking vessels and crockery, cutlery and litter.

The extent and location of areas proposed to be set aside for the consumption of food and alcoholic drink and for smoking.

Whether there is a need for door supervisors to prevent or to control customers congregating in outdoor areas to smoke, consume food or drink, between certain hours or at all times.

6.3.3 Other Environmental Impacts

Whether Operating Schedules contain adequate measures to prevent:

- Litter, smells, fumes, dust, tobacco or other smoke, or other emissions.
- Light pollution arising from the proposed licensable activity.

Whether the proposal will be likely to cause nuisance by congesting the pavement or the roadway.

Whether the proposal would lead to the need for increased refuse storage or waste collection.

Whether measures would be undertaken to prevent nuisance caused by the storage, handling and collection of refuse.

Whether the sale of take-away food is proposed and the measures planned to prevent littering in the vicinity and to clear up any litter that occurs. Litter includes both chewing gum and smoking related litter. Premises may need to make provision for patrols to clear up litter.

Whether queuing is likely and the steps proposed to prevent queuing, or to divert queues away from residential properties.

The measure proposed for the management of people leaving premises to smoke and for their readmission.

Whether other measures to prevent nuisance such as the use of CCTV or the employment of registered door supervisors are appropriate.

6.4 Conditions

The Guidance sets out a pool of conditions that relate to the prevention of public nuisance. In addition the Licensing Authority has devised a pool of conditions which can be found on the Council's website.

With regard to existing premises with non-audibility conditions the enforceability of these is now in question. In the event that premises subject to such a condition were found to be breaching that condition a review of all enforcement options would be undertaken to decide on the most appropriate course of action. If this results in a

review of the licence a suitable condition would be added taking into account current noise guidance.

Hours of opening and hours for each licensable activity must be included in Operating Schedules. Conditions will be attached relating to the hours when premises are permitted to open in order to prevent public nuisance. Conditions could be appropriate to limit the times when certain licensable activities take place, although the premises may be open to the public at such times. For example, there may be reason to have a condition specifying the time at which music ceases to be played in a bar or at an open air concert, which is prior to the end of other licensable activities. Stricter conditions will be applied in areas of denser residential accommodation.

Conditions will be attached to premises where appropriate. These conditions are designed to reduce the impact of a public nuisance arising from the operation of the premises. The conditions may include the following:

- Maximum noise levels over particular time periods – Noise controls and limits specified within the licence will be set in line with relevant guidance currently the Noise Council Guidance and the World Health Organisation Guidelines for Community Noise.
- Installation of sound limiters.
- Acoustic lobbies.
- Provision of signs.
- Publicity and verbal advice to patrons to leave quietly.
- Controlling nuisance from light pollution.
- Taking food and drink outside the premises.
- Fly posting.
- Distribution of leaflets.
- Litter and cleaning outside of the frontage and in the vicinity of the premises.

7. The Protection of Children from Harm

7.1 The Policy

To protect children from harm, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

7.2 Criteria

Whether there are appropriate measures in place to protect children from harm

The admission of children to premises holding a premises licence or club premises certificate will normally be freely allowed without restricting conditions unless the Licensing Act 2003 imposes such a restriction or there are good reasons to restrict entry or to exclude children completely.

7.3 Considerations

Considerable weight will be given to representations about child protection matters. In addition to the police it is recognised that the Director of Public Health may also

have access to relevant evidence to inform such representations.

Whether there are effective means to check the age of those young people who appear under 21, or under 25, to ensure that alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises.

Whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

Whether accompanied children under 16 on the premises of which the primary purpose is supply of alcohol for consumption on the premises are taking a table meal or are being entertained by a live performance.

The hour to which accompanied children under 16 are proposed to be on the premises where the exclusive or primary purpose of the services provided at the premises is the supply of alcohol for consumption on the premises.

Whether due regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks. The Licensing Authority supports the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. It is recommended premises licensed for the sale of alcohol comply with the Code.

Whether there are adequate procedures for identifying unaccompanied or lost children and ensuring that they are kept safe and adequately supervised until they can be handed over to a responsible adult.

The likelihood of children being attracted to the premises; e.g. by the nature of activities or facilities provided whether or not these are licensed.

Whether there is evidence of heavy, binge or underage drinking on the premises.

Whether there is evidence of drug taking or dealing on the premises.

Whether the premises commonly provides entertainment or services of an adult or sexual nature.

Whether there is a strong element of gambling on the premises (but not, for example, the presence of a small number of cash prize gaming machines).

Whether films are to be shown and the measures to restrict children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the Council itself.

If performances or activities are likely to attract children, the number of adults required for the supervision of children.

Where play facilities are provided if an adequate risk assessment has been made and appropriate measures taken.

The measures taken to ensure that those supervising or having significant contact with children have been appropriately vetted to ensure that they pose no risk to children.

Proposals for the provision or arrangement for safe transport of children.

7.4 **Conditions**

The Guidance sets out suggestions for conditions that venue operators may offer relating to the protection of children from harm. This includes the protection of children from moral, psychological and physical harm. In addition the Licensing Authority has devised a pool of conditions which can be found on the Council's website.

In line with the Guidance conditions may be attached relating to the access or, where necessary, the exclusion of people under the age of 18 to a premises licence or club premises certificate where there is:

- A history of offences relating to underage drinking.
- A known association with drug taking or dealing.
- A strong element of gambling on the premises.
- Entertainment of an adult or sexual nature is commonly provided.
- Films shown with age restricted classification.

In line with the Guidance, where they are appropriate, conditions limiting the access of children should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions could include:

- Requirements for adequate procedures to check ages in premises where alcohol is served.
- Limitations on the hours when children may be present.
- The exclusion of children under certain ages when particular specified activities are taking place.
- Age restrictions (below 18).
- Requirements for accompanying adults.
- Restrictions on the parts of premises to which children may have access.
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

As a Licensing Authority the Council will impose conditions on film exhibitions in order to protect children from inappropriate exposure to portrayals of violence or sexual activities, strong language and sexual expletives.

At premises and performances which are likely to attract a substantial number of children, the Licensing Authority may attach conditions requiring the presence of a sufficient number of adult staff on the premises to ensure the well being of the

children during an emergency.

8. Early Morning Alcohol Restriction Orders (EMRO)

~~A Licensing Authority can introduce an EMRO in a particular area if they are satisfied it is appropriate for the promotion of the licensing objectives.~~ An EMRO enables a licensing authority to prohibit the~~can restrict~~ sales of alcohol in the whole or part of ~~its~~the Licensing Authority's area for any specified period between 12am midnight and 6 a.m., ~~if it is satisfied that this would be appropriate for the promotion of the licensing objectives.~~ If an EMRO is introduced it would apply to premises licences, club premises certificates and temporary event notices that operate within the specified area and period.

EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder or serious public nuisance in specific areas at specific times, which is not directly attributable to specific premises.

The introduction of an EMRO could be suggested by the public or the Police. A Licensing Authority is required to advertise any proposal to make an EMRO and demonstrate that they have evidence to justify doing so, as well as considering any representations.

The Licensing Authority will review the need for EMRO's at least every five years in line with the review of this policy to see if circumstances have changed and any are needed, however, the Licensing Authority would consider an EMRO at any time if circumstances changed and evidence supported this course of action.

There are currently no EMRO's in place within North West Leicestershire District.

9. Late Night Levy

A late night levy enables Licensing Authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. It is a power that Licensing Authorities can choose whether or not to exercise.

The levy must cover the whole of the Licensing Authority's area. The Licensing Authority will choose the period during which the levy applies every night, between midnight and 6 a.m., and decide what exemptions and reductions should apply.

The Licensing Authority should discuss the need for a levy with the relevant Police and Crime Commissioner and the relevant Chief Officer of Police. The Licensing Authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy.

Should a Licensing Authority be considering the introduction of a levy, they will prepare and publish a consultation document stating its intention to introduce a levy, its proposed design and the services to be funded with the levy revenue. A Licensing Authority will then consider all consultation responses with a final proposal being put to full Council for their consideration.

The Licensing Authority will review the need for a Late Night Levy at least every five years in line with the review of this policy to see if circumstances have changed and whether a levy is needed, however, the Licensing Authority would consider a Late

Night Levy at any time if circumstances changed and evidence supported this course of action.

A Late Night Levy is not considered appropriate for the promotion of the licensing objectives.

10. Special Policy on Cumulative Impact

Cumulative impact is the potential impact on the licensing objectives of a significant number of licensed premises concentrated in one area.

In certain areas the number, type and density of premises selling alcohol may be associated with serious problems of crime and disorder and/or public nuisance. If this is the case the Licensing Authority may adopt a special policy.

The Licensing Authority in considering whether to adopt a special policy has to take the following steps:

- Identify concern about crime and disorder or public nuisance in the area.
- Consider whether there is good evidence that crime and disorder or nuisance are happening and caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
- Where it can be demonstrated that disorder or nuisance is arising as a result of customers of licensed premises, the boundaries of the disorder or nuisance of that area will be identified.
- Consult with those specified in section 5(3) of the Licensing Act 2003, and subject to the outcome of the consultation,
- Adopt a special policy, and publish details in the licensing policy statement.

The Licensing Authority recognises that there can be confusion about the difference between “need” and “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub, restaurant, etc. This is not a matter for a Licensing Authority in discharging the licensing functions or for this statement of licensing policy.

Any special policy will not be used to:

- Revoke a licence or certificate when representations are received about problems with existing premises.
- Justify the rejection or variation of a licence or certificate except where the modifications are directly relevant to the policy.
- Adopt quotas or set terminal hours in a particular area that pre-determine the individual merits of any application.

The Licensing Authority recognises that once away from licensed premises, there is always a risk that a minority of consumers will behave badly and unlawfully. In these circumstances, there are other mechanisms available for addressing such issues for instance:

- Planning controls.
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority.

- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
- Powers of local authorities to designate parts of the Local Authority area as places where alcohol may not be consumed publicly.
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
- The confiscation of alcohol from adults and children in designated areas.
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

Cumulative Impact – Ashby de la Zouch Town Centre

The cumulative impact policy (CIP) was initially adopted by the Licensing Authority in November 2005 and has been regularly reviewed. The CIP in respect of Ashby de la Zouch town centre has been retained following reviews of the policy in 2008, 2011, 2014 and 2019.

Having had regard to the legislation, guidance and evidence received from the Leicestershire Police following the necessary consultation, the Licensing Authority has determined that a CIP should continue to apply in respect of Ashby de la Zouch town centre. The Licensing Authority considers that the number of premises licences and/or club premises certificates within the area marked on the map at Appendix 1 is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives.

Evidence supporting the necessity of the CIP made reference to both crime and disorder, ~~and public nuisance~~. Evidence showed that the number and density of licensed premises in the area marked on the map at Appendix 1 is having a cumulative impact and leading to problems which are undermining the licensing objectives.

In respect of each relevant application in the area defined at Appendix 1 the Licensing Authority will consider whether it is appropriate to make a representation to the Licensing Sub-Committee as a responsible authority in its own right.

The effect of the Ashby de la Zouch Town Centre CIP is the creation of a rebuttable presumption that applications for new premises licences or club premises certificates or variations will normally be refused, following relevant representations, unless the applicant can demonstrate why the operation of the premises would not add to the in their operating schedule that there will be no negative cumulative impact already being experienced. on one or more of the licensing objectives.

The CIP applies to:

- applications for new premises licences or club premises certificates or variations;
- This CIP applies to applications from ~~all types of premises~~ operating between **20:00 and 06:00;**

- premises of all types and characteristics. The cumulative impact assessment cannot be absolute. We will continue to allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives will be granted. After receiving relevant representations we will consider whether we would be justified in departing from the cumulative impact policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or theatre may not.
- premises within the area defined at Appendix 1 of the policy.

This CIP adopted by the Licensing Authority will be regularly reviewed. This CIP will remain in place until 25 March 2022~~19~~, unless reviewed and removed earlier.

The ~~presumption contained in the~~ CIP does not relieve responsible authorities or other persons of the need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to the special policy. If no representation is received, it remains the case that any application must be granted in terms that are consistent with the operating schedule submitted.

The Licensing Authority recognises that this CIP cannot be absolute and will continue to consider each application properly on its merits and those that are unlikely to contribute to the cumulative impact problems will be granted.

Where the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

11. Licensing Hours

It is recognised that flexible licensing hours are important to ensure that concentrations of customers leaving licensed premises simultaneously are avoided. This can help to reduce the potential for disorder at fast food outlets, taxi ranks and other sources of transport.

However any licensable activity does have the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. Customers may be noisy when leaving or leave litter. The impact of these activities can be particularly intrusive at night when ambient noise levels are much lower.

The Licensing Authority welcomes the development of a wide ranging and culturally diverse night-time economy where this can be achieved whilst the businesses are promoting the four licensing objectives.

Under the Act there are no permitted hours for the sale of alcohol. Applicants are able to suggest in their operating schedule the hours they wish to open and to apply to vary their existing licences if they wish to open beyond their current permitted hours.

Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the Council considers it appropriate for the promotion of the licensing objectives to do so.

In relation to shops and other retail outlets supplying alcohol for consumption off the premises, the general policy will be to allow sales of alcohol at all times that the outlet is open for business. Any decision not to allow sales of alcohol at particular times will be based on the promotion of the licensing objectives.

The Licensing Authority will seek to avoid arbitrary restrictions on hours of opening that would undermine the principle of flexibility.

12. Lapsed Licences, Insolvency and Death

In cases where licences have lapsed through insolvency or death, the Council will generally grant a new licence on similar terms to the lapsed licence as a replacement.

Any reapplication will be treated in the same way as other applications. Should representations be received and not resolved the matter will be decided by a hearing.

The Council will take into account the previous history of the premises, the length of time the premises has been closed, and any problems at the premises, and will impose conditions that reflect current good practice for the type of business proposed at the premises.

13. Variation of Licences

Variations to premises licences or club premises certificates that do not/will not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process.

Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions; and the addition of certain licensable activities.

On receipt of an application for a minor variation, the Licensing Authority will consider whether the variation could impact adversely on the licensing objectives. When considering an application, the Licensing Authority will consult relevant Responsible Authorities and take into account their views if there is any doubt about the impact of the variation on the licensing objectives.

The Licensing Authority will consider any relevant representations received from Other Persons in arriving at a decision. There is no right to a hearing.

The Licensing Authority will not use an application for the variation of a licence as a means to review the licence conditions already granted.

14. Transfer of Licences

When considering an application for the transfer of a premises licence, the Licensing

Authority will only have regard to the individual circumstances of the case as set out in any objection raised by the police on the grounds that the transfer will undermine the crime prevention objective.

15. Provisional Statements

An application for a provisional statement will be considered in the same way as would an application for a premises licence or club premises certificate, on the assumption that the works are completed as per the schedule of works submitted by the applicant.

16. Review of Licences

At any stage, following the grant of a premises licence or a club premises certificate a Responsible Authority or any Other Person may apply to the Licensing Authority for a review of the licence or certificate. A member of the club may also apply for review of a club premises certificate.

The application for review must relate to particular premises for which a premises licence or club premises certificate is in existence and must be relevant to the promotion of the licensing objectives.

Where an application for review is made the Licensing Authority will initially consider whether the application is relevant, vexatious, frivolous or repetitious. A repetitious representation is one that is identical or substantially similar to:

- A ground for review specified in an earlier application for review made in relation to the same premises which has already been determined.
- Representations considered by the Licensing Authority when the licence or certificate was first granted.
- Representations which would have been made when the application for the licence or certificate was first made and which were excluded by reason of the prior issue of a Provisional Statement

A reasonable interval must have elapsed since an earlier review or the grant of the licence. The Licensing Authority considers that a review originating from any Other Person should not normally be permitted within a period of 12 months on similar grounds.

17. Personal Licences

The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol. For this reason personal licence holders are required to have prescribed training and not have relevant convictions, which would indicate their unsuitability.

Every sale of alcohol at a licensed premises is required to be made or authorised by a personal licence holder.

When applying for a personal licence, the Licensing Authority require applicants to produce a Disclosure Scotland certificate that is no older than one month. All applicants are also expected to make a clear statement as to whether or not they

have been convicted of a relevant offence or an equivalent foreign offence outside England and Wales.

18. Permitted Temporary Activities

Where a person wishes to use premises for one or more licensable activities for a period not exceeding 168 hours, that person can serve a:

- Standard Temporary Event Notice (TEN) on the Licensing Authority notifying it of the event. The TEN must be served on the Licensing Authority and a copy served on the Police and Environmental Health, as Responsible Authorities no later than ten clear working days before the event is to begin. To avoid confusion, the ten working days does not include weekends, public holidays, the day of receipt of the TEN and the day of the event itself.
- Late Temporary Event Notice (LATE TEN) on the Licensing Authority notifying it of the event. The TEN must be served on the Licensing Authority and a copy served on the Police and Environmental Health, as Responsible Authorities no later than 5 working days before the first day of the event and no earlier than 9 working days before the first day of the event. To avoid confusion, the ten working days does not include weekends, public holidays, the day of receipt of the TEN and the day of the event itself.

Premises can mean any place. Events authorised under a TEN will therefore not always be in a building and can take place for example in public parks and plots with larger areas of land. In all cases the premises user should provide a clear description of the area in which they propose to carry on licensable activities.

Whilst the Licensing Authority recognise that 10 working days is the minimum notice that may be given in respect of a TEN, the Licensing Authority would encourage such notices to be given at least 28 days before the event.

The maximum number of persons allowed on the premises at the same time during the temporary event is 499.

A number of limitations are imposed on the use of TENS. These limitations are detailed in section 7 of the statutory guidance.

If alcohol is to be supplied, all supplies must be carried out by or under the authority of the person serving the TEN, and that person need not hold a personal licence.

Only the Police and Environmental Health may object to the staging of a temporary event. If they believe that any of the four licensing objectives will be undermined by the event they will issue an 'Objection Notice'. The objection notice must be given within 3 working days following the day on which the TEN is received.

Where an Objection Notice is received in relation to a standard TEN, a licensing sub-committee will be held to determine the notice within seven working days of the Objection Notice being issued. A hearing may not be necessary if an agreement can be reached beforehand.

Where an Objection Notice is received in relation to a LATE TEN, the event will

automatically be refused authorisation. There is no right of appeal in this instance.

There are limitations on the number of TENS that individuals can give and which can be given in relation to a particular premises.

The Act provides that only the Licensing Authority can impose conditions (from the existing conditions on the premises licence or club certificate) to a TEN. The Licensing Authority can only do so:

- If the Police or Environmental Health have objected to the TEN.
- If the objection has not been withdrawn.
- If there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given
- If the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

19. Integrating strategies

The Licensing Authority will seek to achieve integration with the other strategies related to the availability and consumption of alcohol and the reduction of crime and disorder and will consult with the appropriate organisations to achieve this.

19.1 Safer North West Partnership

The Licensing Authority recognises its responsibility to address issues relating to crime and disorder and is committed to working together, with other partners, to make North West Leicestershire a safe and attractive area in which to live, work, study and socialise.

The Licensing Authority, in making decisions will consider the Community Safety Strategy and the work undertaken by the Safer North West Partnership, especially relating to tackling crime and anti-social behaviour.

19.2 Planning

The Licensing Authority will ensure that planning permission and licensing regimes are properly separated to avoid duplication and inefficiency. Applicants must bear in mind that it may be necessary to obtain both planning permission and an appropriate licence/certificate. In such cases applicants are encouraged to seek planning permission first. However, applications for licences and certificates may be made before any relevant planning permission has been sought or granted by the Planning Authority. Licensing Committee is not bound by decisions made by Planning Committee and vice versa.

Licensing Committee and officers will consider discussions with planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs. Where a terminal hour set as a planning condition differs to the licensing hours, the applicant must observe the earlier closing time.

19.3 Building Control

The Building Regulation process is a separate system to the licensing regime.

Applicants should ensure that all necessary approvals have been obtained before the premises begin operating.

19.4 Promotion of Equality

In developing this strategy, the Licensing Authority has recognised its responsibility, under the Equalities Act 2010 to consider the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations and to promote equal opportunity and good race relations between persons of different protected characteristics, racial groups.

19.5 Disabled Access

The Licensing Authority would remind operators of premises of their duties under the Equalities Act 2010. This includes a duty that any person who provides a service to the public must make reasonable adjustments to enable a disabled person to access the service.

19.6 Transport

The Transport Strategy is set out in the Local Transport Plan (LTP) produced by the Leicestershire County Council. The plan sets out the main proposals for achieving an integrated transport system to tackle the adverse impacts of traffic growth. The intention is to encourage greater use of public transport, walking and cycling by making these more attractive.

20. Related Policies

20.1 Street Trading Policy

North West Leicestershire District Council administers a Street Trading Consent scheme. The whole District is considered to be a consent area.

Those street traders who provide hot food or drink between 23:00 and 05:00 hours also require a premises licence under the Licensing Act 2003.

Street traders equipped with a mobile catering vehicle may apply for a premises licence to supply late night refreshment but as part of the application process will be required to provide the details of the area in which they want to trade. This trading area will be quite well defined within the broader landscape and will act as the 'premises'. Trading will not be allowed outside the 'premises' area. The applicant will also be required to provide a description including photographs of their mobile catering vehicle.

To make a change to the vehicle or the 'premises' trading area a licence holder will be required to submit a fresh premises licence application.

20.2 Sex Establishment Venues (SEV)

The Council introduced its SEV policy on 29 March 2011 and although there is an understanding that no SEV licences will be granted the policy does accept there may be exceptional circumstances where this principle may be overturned. Should a SEV

licence be granted its conditions will be integrated with any Licensing Act authorisation.

Licence holders taking advantage of the facility to have up to 11 events in any 12 month period must take all measures to comply with the four licensing objectives. Failure to comply may result in the premises licence/club premises certificate being reviewed.

21. Avoiding Duplication

The Licensing Authority will seek to avoid duplication with other regulatory regimes (e.g. Health and Safety at Work Act) insofar as attaching conditions to premises' licences and club premises certificates.

Conditions will only be attached where they are necessary and proportionate for the promotion of the licensing objectives. If duties are already imposed by other legislation it cannot be considered necessary to impose the same or similar duties in the context of the Licensing Act 2003.

22. ~~Standardised~~ Conditions

The Licensing Authority will only attach conditions to premises licences and club premises certificates that are tailored to the individual style and characteristics of the premises and events concerned and where they are appropriate and proportionate for the promotion of one or more of the licensing objectives.

The Guidance contains a pool of conditions from which the Licensing Authority may draw appropriate conditions to cover particular circumstances. However, it is not intended to be an exhaustive list and other specific conditions may be appropriate.

A number of conditions are mandatory and are required to be applied to some licences or certificates. These relate to such things as the requirement for a designated premises supervisor where alcohol is to be sold, preventing under age admission to age restricted films and the requirement that door supervisors are licensed by the Security Industry Authority. The list of mandatory conditions can be found within the legislation and Guidance.

23. Enforcement

The Licensing Authority will carry out its responsibilities for enforcement so as to promote each of the four licensing objectives.

The Licensing Authority will develop and review enforcement protocols in consultation with the police and other relevant enforcing authorities.

Enforcement activities will be targeted in terms of risk and so as best to promote the licensing objectives. In addition account will be taken of the [Regulators' Code and the](#) general enforcement policy of the Licensing Authority, which aims to ensure that enforcement is transparent, fair, reasonable and proportionate.

The Licensing Authority will investigate complaints relevant to the four licensing

objectives in relation to licensed premises. In the first instance, complaints will be encouraged to raise the complaint directly with the licensee or business concerned. Where a Responsible Authority or any other person has made:

- Valid representations about licensed premises; or
- A valid application for a licence to be reviewed;

then the Licensing Authority may initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.

North West Leicestershire District Council will continue to support and participate in the Leicester and Leicestershire Licensing Best Practice Group – The licensing group aims to:

- Develop consistency in approach and procedure between Licensing Authorities and Responsible Authorities.
- Develop liaison with agencies and other relevant organisations.
- Promote best practice.

North West Leicestershire District Council will continue to support and participate in the Leicester and Leicestershire Regulatory Services Partnership – The Partnership aims to:

- Act as a strategic forum for licensing.
- Enhance the potential for sharing resources.

24. European Union Services Directive

The EU Services Directive provides a mechanism for its citizens to apply for alcohol licences in other member states. That mechanism allows an applicant to make an application electronically, through the Licensing Authority's web site. Payments can also be made electronically. Where applications are made through this system the Licensing Authority will notify all responsible authorities on behalf of the applicant.

The Licensing Authority's EU Services Directive web pages can be found at www.nwleics.gov.uk/pages/licences and street trading.

25. Delegation of Functions

The following will be determined by either the Licensing Committee or one of its sub-committees:

- Application for a personal licence where there are relevant unspent convictions.
- The review of a premises licence or club premises certificate.
- Decision to object when the Local Authority is the consultee and not the relevant authority considering the application.
- Determination of a Police objection to a temporary event notice.
- Determination of an Environmental Health objection to a temporary event notice.

The following will be determined by either the Licensing Committee or one of its sub-committees where a relevant representation has been made:

- Application for a personal licence.
- Application for a premises licence or club premises certificate.
- Application for a provisional statement.
- Application for variation to a premises licence or club premises certificate.
- Application to vary a designated premises supervisor.
- Application for transfer of a premises licence.
- Application for interim authority.

The Licensing Authority will ensure that all members appointed to serve as members on the Licensing Committee have undergone appropriate training before they act in that capacity.

A table of delegations of licensing functions is detailed at Appendix 2

26. Appeals

Applicants and those making representations in respect of applications and reviews to the Licensing Authority have the right of appeal to the Magistrates' Court against the Licensing Authority's decisions. Further information on how to appeal can be obtained by contacting Leicester Magistrates Court, The Court House, 15 Pocklington Walk, Leicester LE1 6BT

27. Fees

Following amendments that came into force in October 2012 the Licensing Act 2003 requires a Licensing Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

28. Period of Validity and Review

This statement of licensing policy will come into force on **26 March 2019** and be valid for five years, subject to review.

The policy will be kept under review during that period and if necessary amendments made.

29. Contacts

Anybody wishing to contact the Licensing Authority with regard to this Policy Statement can do so as follows:

In writing to: Environmental Health - Licensing
North West Leicestershire District Council
Council Offices
Coalville
Leicestershire
LE67 3FJ

By e-mail to: licensing@nwleicestershire.gov.uk

By fax to: 01530 454574

Document History

Issue 1	7 January 2005 – 7 November 2005
Issue 2	8 November 2005 – 6 January 2008 (Ashby Special Policy)
Issue 3	7 January 2008 – 15 January 2008
Issue 4	15 January 2008 – 6 January 2011
Issue 5	7 January 2011 – 25 March 2014
Issue 6	26 March 2014 – 25 March 2019 (unless reviewed)
Issue 7	26 March 2019 – 25 March 2024 (unless reviewed)

Appendix 1



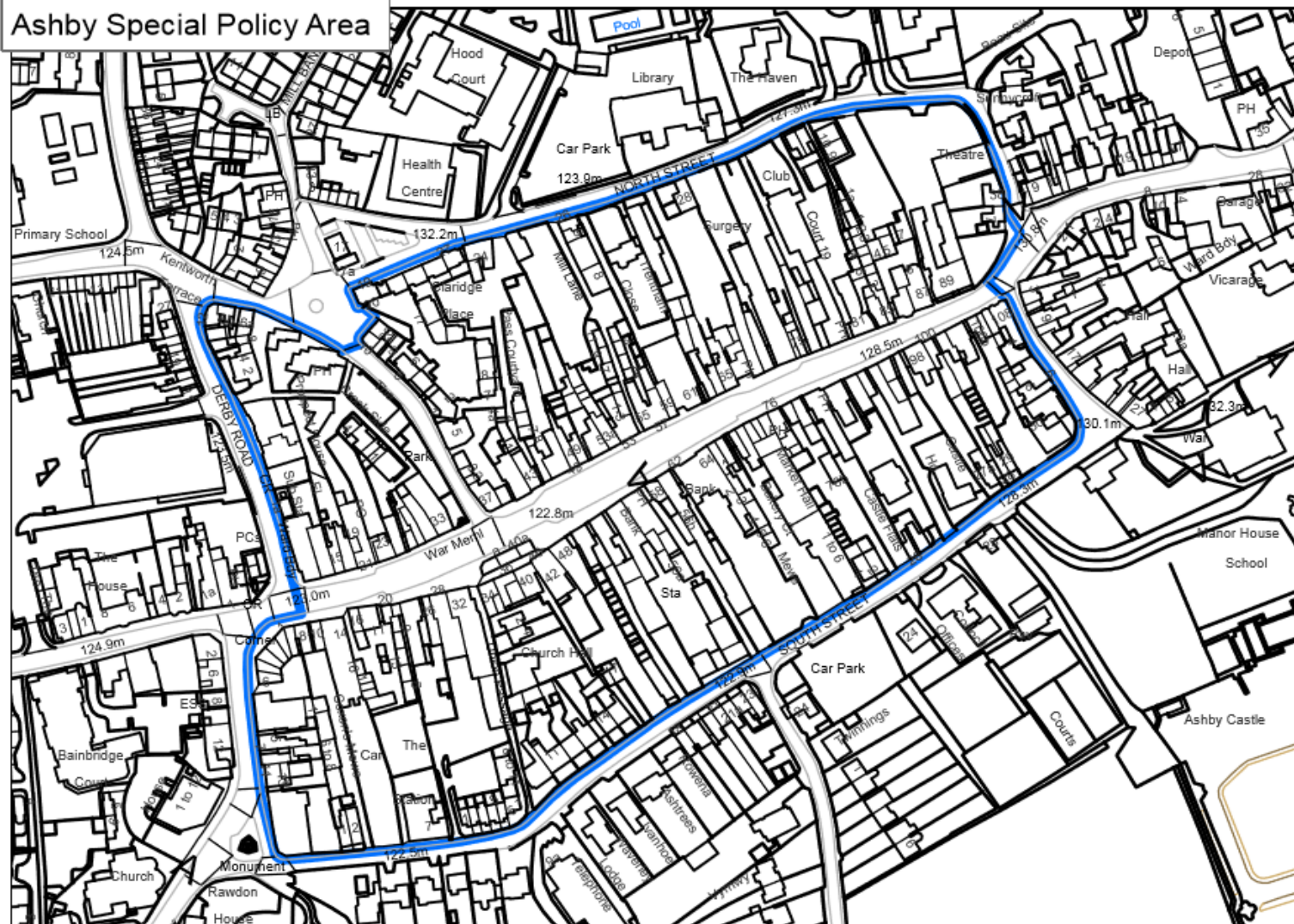
Legend
 Boundary Line



0 5 10 20 30 40
 Meters

1:2,500

Ashby Special Policy Area



All maps reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. This copy has been produced specially for reference purposes only. No further copies may be made. NW Leicestershire LA 078832 2018

Table of Delegations of Licensing Functions

Matter to be Dealt With	Licensing Committee	Sub-Committee (3 Member Panel)	Authorised Officer
Application for Personal Licence		If an objection is made	If no objection made
Application for a personal licence with unspent convictions		All cases	
Applications of premises licence / club premises certificate		If a representation is made	If no representation made
Application for provisional statement		If a representation is made	If no representation made
Application for Minor Variation to vary premises licence / club premises certificate			All cases
Application to vary premises licence / club registration certificate		If a representation is made	If no representation made
Application to vary designated premises supervisor		If a police objection is made	All other cases
Request to be removed as designated premises supervisor / personal licence holder			All cases
Application for transfer of premises licence		If a police objection is made	All other cases
Application for Interim Authorities		If a police objection is made	All other cases
Application to review premises licence / club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when Local Authority is a consultee and not the lead authority		All cases	
Determination of a police and / or Environmental Health representation to standard Temporary Event Notice		All cases	
Determination of a police and / or Environmental Health representation to a Late Temporary Event Notice			All cases

Responsible Authorities

A current list of contact details for each authority is provided on the Council's web pages. Alternatively contact details can be obtained by contacting the Licensing Authority by telephone on 01530 454545 or by email at licensing@nwleicestershire.gov.uk.

Responsible Authority	<u>Name of Local Organisation</u>-Authority
Chief Officer of Police	Leicestershire Police
Local Safeguarding Children Board	Leicestershire & Rutland Local Safeguarding Children Board Leicestershire County Council
Local Fire & Rescue Authority	Leicestershire Fire & Rescue Service
Local Planning Department	Development Control <u>Team</u> North West Leicestershire District Council Council Offices
Local Authority with responsibility for Environmental Health (Public Nuisance)	<u>Environmental Protection Team</u> Street Action North West Leicestershire District Council Council Offices
Local enforcement agency for Health & Safety at Work	Environmental Health – Safety North West Leicestershire District Council
Licensing Authority	Environmental Health – Licensing North West Leicestershire District Council
Trading Standards	Trading Standards Business Services Leicestershire County Council
<u>Director of Public</u> Local Health Board	Public Health Leicestershire County Council
Navigation Authority (vessels only)	Environment Agency Canal & River Trust

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

Licensing Act 2003 Cumulative Impact Assessment

**Effective Period:
2019-2022**

Part 1

Introduction

- 1.1 Cumulative impact is the potential negative effect on the promotion of the licensing objectives of a significant number of licensed premises concentrated in an area. The licensing objectives are set out in the Licensing Act 2003 (the 'Act') and cover four key areas:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.2 A cumulative impact assessment helps to inform the statement of licensing policy with the aim of limiting the number of licence applications granted where there is evidence to show that the number of licensed premises in a particular area is having a cumulative impact and leading to problems which are undermining the licensing objectives.
- 1.3 This assessment has been documented following the introduction of the Policing and Crime Act 2017 which took effect from 6 April 2018. The assessment will be formally reviewed every 3 years, however may also be reviewed during this period so that amendments can be made as necessary.
- 1.4 To avoid duplication the assessment should be read in conjunction with the policy, the Act, its regulations and the current edition of the Home Office revised guidance issued under section 182 of the Licensing Act 2003.

Consultation

- 1.5 We are required by the Act to consult the following groups of people:
- Chief Officer of police for the area;
 - Chief Officer of fire & rescue service for the area;
 - Persons/bodies representative of local holders of premises licences;
 - Persons/bodies representative of local holders of Club premises certificates;
 - Persons/bodies representative of local holders of Personal licences;
 - Persons/bodies representative of local holders of Businesses and residents in its area.
- 1.6 In preparing the assessment a consultation process was carried out between 7 June 2018 and 24 August 2018 which included those bodies/groups listed at paragraph 1.5. Comments received during that consultation were then considered and used to form this assessment and paragraph 10 of the statement of licensing policy.

Part 2

The Assessment

- 2.1 The district of North West Leicestershire is home to a number of popular restaurants, bars, night clubs and late night refreshment venues.

- 2.2 The council encourages the development of a variety of premises providing a range of licensed activities catering for a wide range of users. This is reflected in the town centre having received a purple flag award.
- 2.3 The assessment relates to all types of licensed premises carrying on licensable activities within the cumulative impact zone, including the sale of alcohol for consumption on or off the premises (or both), the provision of late night refreshment and regulated entertainment. The assessment does not apply to Temporary Event Notices (TENs); however the evidence upon which the assessment is based may be used by the relevant responsible authorities when submitting objections to TENs.
- 2.4 The council considers that, in a specified part of Ashby de la Zouch town centre known as the cumulative impact zone (CIZ), the number of premises licences and/or club premises certificates are such that it is likely that granting further licences or variations to existing relevant authorisations would be inconsistent with our duty to promote the licensing objectives.
- 2.5 Although this assessment provides an evidential basis for applications within a CIZ to be refused; it does not relieve responsible authorities or any other persons of the need to make a relevant representation. Each application will be considered on a case by case basis and applicants are expected to demonstrate why the operation of the premises would not add to the cumulative impact already being experienced. The assessment will never be used as a ground for revoking an existing licence or certificate.
- 2.6 The evidential basis for the assessment is set out in Part 3 below; Part 4 includes a map of the CIZ identified by the assessment.
- 2.7 This assessment shall be kept under review and changes may be made in relation to local circumstances, the Licensing Act, associated regulations or statutory guidance and national legislation.
- 2.8 Below is a list of licensed premises within the CIZ. The list identifies the premises type and the terminal hour.

Premises	Type of premises	Terminal Hour
Bulls Head, Market Street	Public House	Monday to Sunday 09.00am to 1.30am the following morning.
White Hart, Market Street	Public House	Monday to Thursday – 09.00am to 12.30am. Friday and Saturday – 09.00am to 02.30am Sunday – 09.00am to 12.30am
Manhattans, Market Street	Club	Monday and Tuesday, 9.00am to 12.00 midnight Wednesday and Thursday, 9.00am to 2.00am the following morning Fridays and Saturdays, 09.00am to 02.30am the following morning.
Lamb Inn, Market Street	Public House	Monday to Wednesday 09:00 hrs - 23:00 hrs

		Thursday and Sunday 09:00 hrs - 00:30 hrs Friday and Saturday 09:00 hrs - 01:30 hrs the following morning
Bowling Green Inn, Brook Street,	Public House	Sunday to Thursday – 11.00am - 12.30am. Friday and Saturday – 11.00am - 01.30am
Ashby Grill, 78 Market Street	Take-Away/LNR	Sunday to Thursday - 23:00hrs to 01:00hrs Friday and Saturday - 23:00hrs to 02:30hrs
Ashby Fish Bar, 83 Market Street	Take-Away/LNR	Friday & Saturday 23:00 hrs - 02:30 the following morning
Ashby Chicken, 59 Market Street	Take-Away/LNR	Sunday to Thursday - 23:00hrs - 00:00hrs Friday and Saturday - 23:00hrs - 02:30hrs
Queens Head Hotel and Ciro's, Market Street	Club	Sunday to Thursday - 09:00hrs until 02:00hrs Friday and Saturday - 09:00hrs until 03:30hrs
Tap at 76, Market Street	Public House	Monday to Saturday - 12.00hrs until 00.00hrs Sundays - 12.00hrs until 23.00hrs
Marranellos Wine Bar, Rushtons Yard	Wine Bar/Public House	Monday to Thursday – 10.00am to 00.00 Fridays and Saturdays 10.00am – 01.00 Sundays 10.00 – 00.00
The Monkey Tree, Mill Lane Mews, Ashby	Public House/ Restaurant	Monday to Sunday – 10.00am to 00.00
Cocktail Bar, Rushtons Yard	Bar/Public House	Sunday to Thursday - 09:00 to 00:00 hrs Friday and Saturday - 09:00 to 01:00 hrs
Central England Co-operative, Market Street, Ashby	Off sales	Monday to Sunday 07:00 to 22:30hrs.
Brew, Market Street, Ashby	Off sales	Monday to Thursday 10.30 to 18:00

		Friday and Saturday 10.30 to 19:00
GT News and Off Licence, Market Street, Ashby	Off sales	Every day – 05:00 to 21:00

Part 3

Historical context

The cumulative impact policy relating to Ashby town centre was introduced in November 2005 following a rise in alcohol related violent crime in and around Market Street, Ashby de la Zouch.

Statistical information provided by Leicestershire police shows a dramatic rise in assaults in Market Street Ashby prior to November 2005 when the cumulative impact zone was created. Total assaults steadily rose from 56 in 2003 peaking at 87 in November 2005. Thereafter reports show a steady decrease in assaults year on year from 2006 to 2011, with the exception of a spike in 2011.

The statistics below relate to assaults only.

Year	Ashby total	Ashby town centre	% Ashby town centre
2003	174	56	32.2%
2004	288	81	28.1%
2005	263	87	33.1%
2006	261	78	29.9%
2007	246	77	31.3%
2008	222	61	27.5%
2009	215	55	25.6%
2010	179	45	25.1
2011	170	68	40%
2012	135	44	32.6%

Current Evidential Basis

The evidential basis for the assessment has been supplied by Leicestershire police. The data taken from both NICHE and STORM recording systems relates to the licensed premises and streets within the cumulative impact zone. Each report required either attendance or case management resource from Leicestershire police.

	Total reports	Av. Reports per month	Report type	Location – street	Location – within licensed premises	Violent offences (Home Office standard)
2012 (11 months)	67	6	Burglary, DV, harassment, assault, public order, drugs, damage, robbery, theft, drunk and disorderly, licensing breaches	38 (56%)	29 (44%)	42 (63%)

2013	57	5	Assault, public order, damage and licensing breaches	20 (35%)	37 (65%)	42 (74%)
2014	65	5	Assault, sexual offences, damage, public order, drugs, theft, weapon, licensing breaches	26 (40%)	39 (60%)	48 (74%)
2015	43	4	Damage, assault, public order, sexual offences, drugs, licensing breaches	18 (42%)	25 (58%)	35 (81%)
2016	63	5	Assault, damage, public order, weapon, drugs, racially aggravated, licensing breaches	31 (49%)	32 (51%)	51 (76%)
2017	60	5	Assault, damage, public order, weapon, licensing breaches	22 (37%)	38 (63%)	43 (87%)
2018 (9 months)	51	6	Assault, damage, public order, licensing breaches	11 (24%)	40 (76%)	46 (90%)

Conclusion

Although the analysis does indicate the number of reported crimes has remained stable since 2012; this is not considered enough to dispense with the cumulative impact zone. The percentage of total reports categorised as violent offences has risen slightly year on year since 2012.

It is considered that the statistical data evidenced above together with a written report produced by Leicestershire Police clearly supports the retention of the special policy relating to cumulative impact.

Additionally the data does not indicate that any extension to the geographical area of the CIZ is required.

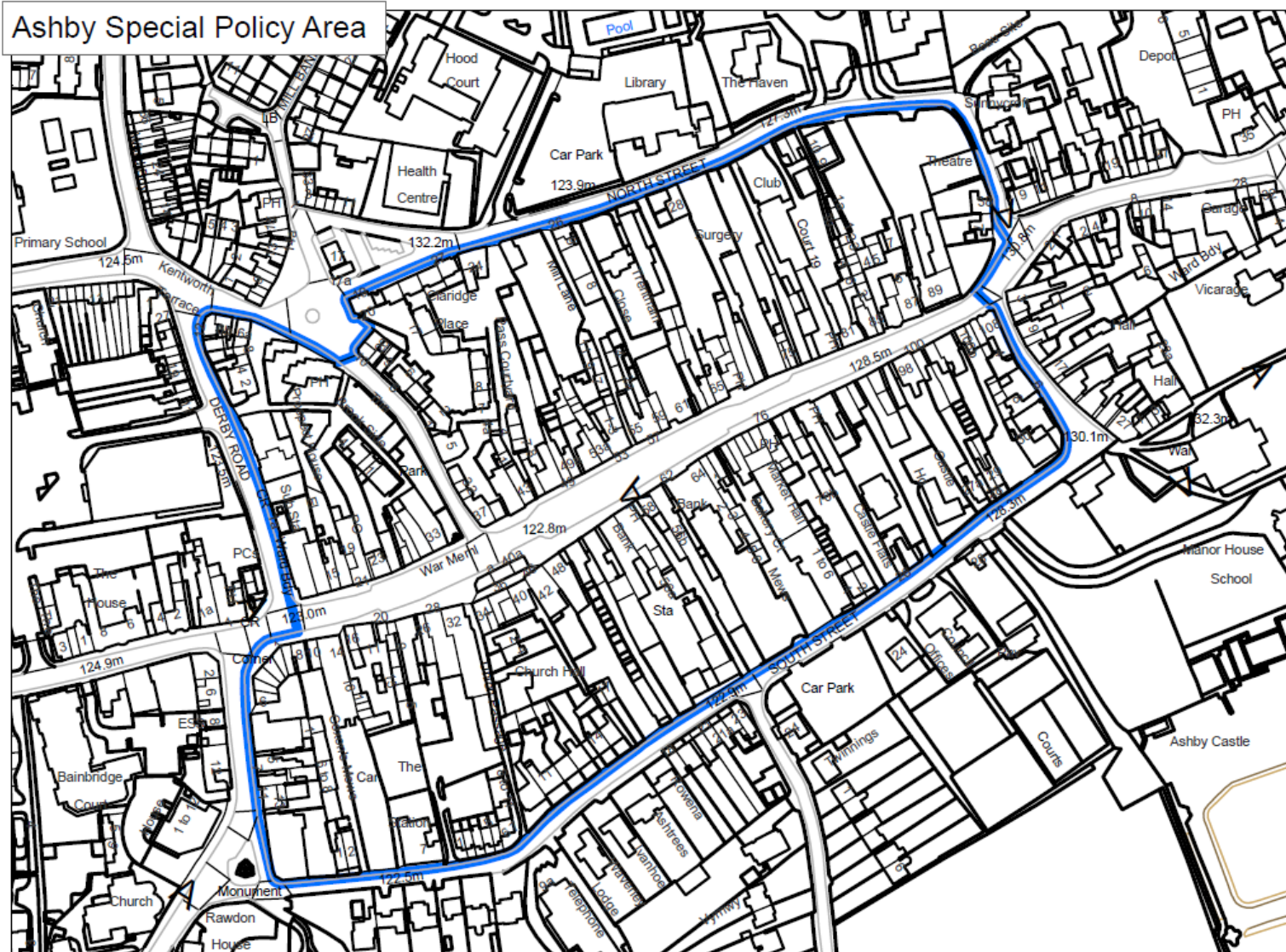
Part 4

Below is a map showing the cumulative impact zone.



1:2,500

All maps reproduced from the Ordnance Survey mapping with the permission of the Controller of her Majesty's Stationery Office Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. This copy has been produced specially for reference purposes only. No further copies may be made. NW Leicestershire LA 078832 2018



This page is intentionally left blank

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**LICENSING COMMITTEE – 21 NOVEMBER 2018**

Title of report	NATIONAL REGISTER OF TAXI AND PRIVATE HIRE LICENCE REVOCATIONS AND REFUSALS (NR3)
Contacts	<p>Portfolio Holder - Councillor Alison Smith MBE 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Lee Mansfield Environmental Health Team Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Andy Cooper Licensing Team Leader 01530 454844 andy.cooper@nwleicestershire.gov.uk</p>
Purpose of report	This report details the introduction of a National Register of Taxi and Private Hire Licence Revocations and Refusals, which is to be known as the NR3 Register, as implemented by the Local Government Association (LGA) and National Anti-Fraud Network (NAFN). The committee is requested to determine whether or not the council should adopt the NR3 Register and Guidance.
Council Priorities	Business & Jobs Homes and Communities
Implications:	
Financial/Staff	The council is already an existing member of NAFN, therefore there will be no additional cost associated with the adoption of the NR3 Register and LGA/NAFN Guidance. There are no additional staffing implications
Link to relevant CAT	Not applicable
Risk Management	See body of report – section 4
Equalities Impact Assessment	Not applicable
Human Rights	A decision to revoke or refuse a licence will engage the licensee's rights under the Human Rights Act 1998 and consideration of Article 8 of the European Convention of Human Rights. This right can be limited in accordance with public law where it is necessary and proportionate to share information in the interests of public safety and the protection of the rights and freedoms of others

Transformational Government	None
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	None
Background papers	Hackney Carriage and Private Hire Driver Fit and Proper Person Policy – Issue 15
Recommendations	<p>THAT LICENSING COMMITTEE ADOPT THE NATIONAL REGISTER OF TAXI LICENCE REVOCATIONS AND REFUSALS AND THE GUIDANCE PRODUCED BY THE LOCAL GOVERNMENT ASSOCIATION AND NATIONAL ANTI-FRAUD NETWORK;</p> <p>THAT THE ENVIRONMENTAL HEALTH TEAM MANAGER BE GIVEN DELEGATED AUTHORITY, FOLLOWING CONSULTATION WITH THE PORTFOLIO HOLDER TO AMEND THE COUNCIL’S HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER FIT AND PROPER PERSON POLICY TO REFLECT THE ADOPTION OF THE NATIONAL REGISTER.</p>

1.0 INTRODUCTION

- 1.1 When considering applications for a hackney carriage / private hire driver licence, the council must be satisfied that the applicant is a “fit and proper person” to be granted a licence.
- 1.2 The Local Government Association (LGA) and National Anti-Fraud Network (NAFN) have implemented a National Register of Taxi (also incorporating Private Hire) Revocations and Refusals, to be known as the NR3, and the committee is requested to consider adopting the NR3 Register and associated Guidance.

2.0 BACKGROUND

- 2.1 All applicants for a taxi and private hire licence are asked, on the application form, if they have ever had a licence application refused or revoked by another local authority. If an applicant answers “yes” to this question, they also have to give the name of the local authority concerned and officers can ask that authority for the relevant information. However, if an applicant states “no”, there is no way to check or otherwise verify that this information is correct. Therefore, there is the potential for an applicant to have had a licence application refused or revoked by another local authority to obtain a licence elsewhere.

- 2.2 Similarly, there is the potential for a person who had their licence refused or revoked by North West Leicestershire District Council to obtain a licence elsewhere.
- 2.3 Regulators within the licensing trade have been advocating for a very long time for there to be a national register of licence revocations/refusals in order that adequate checks could be made against licence applicants, and the LGA, in conjunction with the NAFN, has now implemented such a database as from August 2018.
- 2.4 Attached to this report at **Appendix 1** is guidance on adopting the NR3 Register produced by the LGA and NAFN. The guidance stipulates the procedure that a local authority would need to follow in order to provide data for the NR3 Register and for the Council to access the data.
- 2.5 If the committee is minded to adopt the NR3 Register, it will involve the council providing information for the database on revoked or refused licences and responding to information requests on these data subjects in the event that the person applies to another local authority for a licence. When a person applies for a licence, the database will be checked by a licensing officer, and if an applicant appears on the database, an information request will be sent to the appropriate local authority.
- 2.6 With particular reference to the LGA/NAFN Guidance:
 - 2.6.1 Section 4.1 refers to membership of the NAFN and the need to sign-up to data sharing and data processing agreements with NAFN. The council is already a member of NAFN, and as a result there will be no additional costs associated with this.
 - 2.6.2 Section 4.3 refers to historic data migration and refers to data being retained for 25 years on the NR3 Register. Enquiries will have to be made to ascertain how many applicants have had their licence/application revoked or refused and it will be necessary to write to each previously revoked or refused applicant and advise them that their information will be uploaded to the NR3 Register and the reasons for this. An individual may request that the information is not uploaded and any requests of this nature will be fully considered before a final decision is made.
 - 2.6.3 Section 5.3 refers to the disclosure of information relating to refusals/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 of data from the NR3 Register. A suggested template policy is contained within the guidance at Appendix 1. A separate record will be made of all requests for information.
- 2.7 The committee is requested to consider the adoption of the National Register for Taxi Licence Revocations & Refusals together with the guidance produced by the LGA and NAFN.

3.0 OPTIONS

Option 1 – Do not 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 will remain. Similarly, the potential for a person who has had their taxi/private hire licence revoked/refused by the council to be granted a licence with another local authority remains.

Option 2 – Adopt the NR3 Register

This is the preferred option as it will give local authorities an extra check in regard to an applicant's background to protect the public.

4.0 RISK MANAGEMENT

- 4.1 Failure to adopt the NR3 Register may lead to a reputational risk to the authority for not following the LGA guidance, however this can be off-set by the checks that the council already has in place in regards to the suitability of an applicant.
- 4.2 There is also the reputational risk that this council may grant a licence to a driver whom another authority has deemed as being unsuitable.

5.0 IMPLEMENTATION

- 5.1 If the committee is minded to adopt the NR3 Register, the council's Hackney Carriage and Private Hire Driver Fit and Proper Person Policy will be reviewed and amended and the revised requirements implemented for any new applicants applying for a licence. Application forms for licences will be amended to refer to the NR3 Register.
- 5.2 New applicants will be made aware of the NR3 Register by changes to the application form which will inform applicants of the NR3 Register and that their information may be uploaded to it if their application is refused or any subsequent granted licence being revoked. Existing licence holders will be made aware of the NR3 Register when they come to renew their licence, via changes to application forms.
- 5.3 Where there are doubts as to an applicant's suitability to be granted a licence being on the NR3 Register, the applicant may be referred to the Licensing Sub-Committee for it to determine if the applicant is "fit and proper" to be granted a licence.
- 5.4 As the NR3 Register will involve the processing of personal data, the General Data Protection Regulation and Data Protection Act 2018 principles will need to be followed.



Guidance on adopting the National Register of Taxi Licence Revocations & Refusals (NR3)

Contents

1. Background
2. Objective of NR3
3. Voluntary disclosure of previous licensing history
4. NR3 - an overview
 - 4.1. Accessing the register
 - 4.2. Register functionality
 - 4.3. Historic data migration
5. Updating licensing processes and procedures
 - 5.1. Informing applicants of the NR3 register
 - 5.2. Adding details of a refusal or revocation
 - 5.3. Checking the register as part of the application and renewal process
 - 5.4. Acting on detailed disclosures
6. Complying with data protection requirements
 - 6.1. Updating the licensing policy, application forms and guidance
 - 6.2. Making existing licensees aware

Annex A – guidance on amendments to policies and forms

Annex B – suggested notification to existing licensees of NR3

Annex C - suggested notification to former licence holders or applicants whose details will be entered onto NR3

Annex D – Suggested template policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3, including template disclosure form

1. Background

Licensing Authorities are required to satisfy themselves that those holding hackney carriage and Private Hire Vehicle (PHV) driver licences¹ 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 licensee 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 one authority from simply going to another area and securing a licence - assuming the second authority was aware of the earlier revocation.

At the moment, 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 (LGA) 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 new 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.

This guidance note provides information on the steps that licensing authorities should take to ensure that they have the necessary supporting procedures in place to make use of the register. Specific user guidance and training materials on using the register will be published separately.

Important

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. Licensing authorities are therefore strongly advised to work closely with their information governance and legal teams to assure themselves that they are taking the necessary steps to comply with data protection and other laws in regard to NR3.

¹ Throughout this document, this term includes dual or combined Hackney / PHV licences.

2. Objective of NR3

The simple objective of the national register is to ensure that authorities are 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. Whenever a licensing authority processes a new application for a hackney carriage/PHV driver's licence, or for a renewal, it should check the register at a suitably early stage of the process to confirm whether the applicant was subject to a previous licensing decision that they should be aware of.

Every application must always be considered on its own merits. A licensing authority must 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.

However, it will always be relevant for an authority to consider a previous refusal or revocation, and the reasons for that decision. That previous decision may in many cases warrant significant weight to be given to it. Licensing authorities will wish to think carefully about taking a different view to an earlier decision. Depending on the nature and context of the earlier decision, they may require strong and new evidence to support a different view, having regard to the representations of the applicant. Any authority will wish to have proper respect for the decision of a previous authority, having regard to the fact that a driver had the right of appeal to the Magistrates' Court against a decision which was wrong or flawed. Without this approach, the objectives of safeguarding and consistency – and the reputation of local government – will be undermined.

The register will not record suspensions of drivers' licences. This is 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 taken²; 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 revocation³. 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.

² See *R (on the application of Singh) v Cardiff City Council* (Admin), [2013] LLR 108 and *Reigate & Banstead Borough Council v Pawlowski* [2018] R.T.R. 10

³ Suspension as a punishment is permissible – see *R (on the application of Singh) v Cardiff City Council* [2013] LLR 108

3. Voluntary disclosure of previous licensing history

NR3 provides a mechanism for sharing information about an individual's previous licensing history if they have had a licence revoked or an application for one refused. Most licensing authorities already ask applicants to indicate on their application forms whether they have previously had a licence revoked or refused. With the introduction of NR3, authorities should ensure that the request for this information is clearly set out on the application form and accompanying guidance notes. Where an applicant fails to volunteer information that has been clearly requested but which is subsequently identified through NR3, this may in itself raise questions about the applicant's integrity and status as a fit and proper person.

4. NR3 - an overview

4.1. Accessing the register

The national register is hosted by the National Anti-Fraud Network (NAFN). Access to the register is only available to members of NAFN. Licensing authorities are encouraged to join up to NAFN and recover the cost of this through their taxi licence fees. NAFN can be contacted by email on general@nafn.gov.uk.

NAFN members will need to sign up specifically to the NR3 element of the NAFN database, which will allow access to the dedicated portal. This is a relatively straightforward process and can be done by contacting NAFN.

A relevant officer will need to be designated as a single point of contact (SPOC) as part of the registration process. Authorities which already use the NAFN system will already have an existing SPOC in place (or potentially multiple SPOCs for different areas of functionality), so consideration will need to be given to the interaction between existing NAFN contacts and the new NR3 functionality.

Once set up on the register, other officers will be able to create user accounts which will allow them to submit data or search the register, but these accounts will need to be verified/approved by the SPOC. Consideration should be given to the number of officers that need to be set up with user accounts to enable them to use the register to search / input information.

Subscribing to the national register will require local authorities to sign up to data sharing and data processing agreements with NAFN. 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).

4.2. Register functionality

The register has 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 will 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 a renewal, 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.

Details contained on the register will be limited to information that will help to identify an individual to a certain degree of accuracy, but will not give a reason or explanation of why an action was taken. It will be up to individual authorities to follow up on any searches which come back with a match with the appropriate licensing authority, whose contact details will be included in the search result.

Details will be kept on the register for a period of 25 years, and local authorities will therefore need to ensure that their own information governance policies reflect this. The register has been developed to support public safety through the potential sharing of information that is relevant to consideration of whether an individual is a fit and proper person to hold a taxi licence. There will be instances where the basis for an individual's licence being revoked or refused is sufficiently serious as to remain relevant to a future taxi licence application however far in advance it is submitted; for example, where it concerns an issue of sexual misconduct in relation to a passenger. The data retention period for the register has therefore been set to reflect the potential gravity of some revocations and refusals, and the need for this information to be shared. However, as set out later in this document and in the supporting policy at Annex D, any information to be shared between authorities outside of the register must be shared on a proportionate and time limited basis, in accordance with the authority's policy for doing so. If an authority did not take a case specific approach but chose to share all data over the full retention period, this would be likely to be disproportionate and therefore unlawful.

Authorities will need to ensure that their information governance policies are updated to make reference to the NR3 retention period, the associated retention period for supporting taxi licence data, and the rationale for it.

4.3. Historic data migration

The first step once subscription to the register has been completed is to populate the register with historic data of licence revocations and refusals. To do this, licensing authorities will need to submit historic data via CSV file to NAFN. NAFN have provided a standard template to use to submit data.

The majority of licensing authorities will use an electronic licensing system, and therefore will be able to obtain extracts from their licensing systems which can then be cut and pasted into the spreadsheet. However, if authorities use a manual system to issue licenses, they will need to manually fill out the spreadsheet.

In order to comply with data protection law, there must be a point beyond which historic data will not be uploaded. It is difficult to determine what that should be. However as the retention period for data on the register is 25 years, this appears to be an appropriate period. Accordingly no historic data more than 25 years old should be uploaded to the register. It is important to note here that the 25-year data retention period begins at the point at which a licence was refused or revoked, rather than the date when the data was uploaded to the register.

Crucially, it is vital to ensure that any historic data which is uploaded by a licensing authority has not been retained in contravention of that authority's own retention policy. It is accepted that this may lead to differing ages of historic data being uploaded, but that is unavoidable to ensure compliance with data protection law.

Before any historic data is uploaded, the authority must write to those individuals who the data concerns stating that the data will be uploaded at a future date, which should be a

period of not less than 28 days. Individuals should be informed about the purposes of the data processing, the legal basis for it, and their various rights to object in regard to this.

Although the letters do not specifically need to invite representations about the proposal, any representations that are made in that period should be considered by the authority and data should only be uploaded where the authority feels that it is fair and appropriate to do so. This will not prevent historic data being uploaded, but will ensure that where data is held which may be uploaded, there is an opportunity for the authority to reconsider whether that is the correct action to take. A template letter for contacting former licence holders is attached at Annex C.

Once historic data has been submitted, any new revocations or refusals will need to be entered onto the NAFN register portal by a licensing officer as and when decisions are taken.

5. Updating licensing processes and procedures

Using the register will necessitate some key changes to the way applications and renewals are processed and information recorded.

5.1. Informing applicants of the NR3 register

Applicants must be informed of the existence of the NR3 register and that it will be consulted in connection with their application (and subsequent applications to renew licences).

They must also be informed that their personal data will be placed on the register if at any time their licence is revoked or renewal is refused.

Licensing authorities in receipt of applications must ensure that applicants are given the contact details of the data protection officer for the licensing authority, contact details for NAFN, and are advised of the fact that the information can be retained for up to 25 years (which is the retention period) and the fact they have a right to lodge a complaint with the Information Commissioner, together with the contact details for the Information Commissioner. It is suggested that this information is included in the privacy information provided to individuals when they apply for a licence. This is discussed further in 6.1.

5.2. Adding details of a refusal or revocation

When an application for a licence is refused, or an existing licence is revoked, authorities will need to enter this information onto NR3. It will be important to ensure that authorities only enter refusals that have genuinely been considered and refused; NR3 is not intended to capture details of incomplete applications which an authority does not process. The key point is that a decision has been taken because there is evidence that an individual is not a fit and proper person to hold a licence.

Entering this information will be a simple and quick step, as only a limited amount of information will be added to the register: the individual's details; the date of the decision; the date it takes effect; and the decision taken – but not the reason for the decision.

Several authorities have reported that individuals who have had a licence revoked have previously moved very quickly to try to gain a licence elsewhere. It will therefore be important that authorities are prompt in adding the details of refusals or revocations to the register, so

that the information is available in the event that an individual does seek to secure a licence from another authority.

Authorities should ensure that they include the entries onto NR3 in their authority wide records of their data processing activities.

5.3. Checking the register as part of the application and renewal process

The second process change will relate to applications for hackney carriage/ PHV driver licences. Licensing authorities will also wish to check the register when they undertake licence renewals; firstly to confirm any historic information that may have been added in respect of one of their licensees, but also because it is possible that some drivers may hold more than one licence, and could therefore have one revoked in another area.⁴

This in itself is a two-stage process: stage one is the checking of the register; stage two is making a request to the authority that uploaded the information to the register for details of the revocation or refusal.

Once signed up to the register, licensing authorities will need to ensure that they check the details of new applicants on the register, to identify whether they have a previous licensing history (which may or may not have been disclosed on an application). Individual authorities will need to determine the appropriate point in their application process at which to check the register; however, it is suggested that this is done at a very early stage so that the authority can process the application with the knowledge of any previous history, if the applicant has one.

Guidance on using the register will set out the search parameters that authorities can use. It has been recognised throughout the process that individuals may use different names or provide different details to different authorities – perhaps in an attempt to avoid association with any previous issues – and searches should therefore take this into account.

If a search of the register does not indicate that an applicant has any previous history the authority should be aware of, then the authority should continue to process the application as normal. A negative search result will not, of course, mean that the applicant is a fit and proper person; that will be for the authority to assess in the usual way.

If a search does indicate a possible match on the register, then the authority will need to move on to stage two and seek further information. The register will indicate which authority has entered a possible match, and provide contact details for that authority.

It is suggested that an authority seeking information from another authority about an entry on the register should make a request in writing for the information on which the decision recorded in the register was based (a suggested form is included at the end of Annex D). Authorities are encouraged to respond to such requests as soon as possible, and ideally within 10 working days of receiving a request.

⁴ The growth of app-based models and sub-contracting changes introduced by the Deregulation Act have both facilitated increased 'out of area' working, and may therefore make it less likely that in the future, under the existing framework, a driver would hold more than one licence.

The sharing between licensing authorities of this more detailed data - which may often involve the processing of special category personal data⁵ - is not included within the data processing and data sharing agreements governing use of the register itself. 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. It must be recognised that information will not be shared following every request. The authority that receives the request must consider whether it is actually proportionate to share this information, and ensure that disclosures are not arbitrary. This must also be detailed in their policy document. Having such a policy is a requirement of data protection law, Article 8 of the European Convention on Human Rights and of public law.

If such a policy is in place which properly differentiates between circumstances, both authorities will be entitled to rely on processing conditions under Article 6(1)(e) and, in cases of special category data, Articles 9 and 10 GDPR⁶. Licensing authorities will need to satisfy themselves that they have followed the appropriate processes in sharing this more detailed data.

The authority that receives the request must consider what information, if any, to reveal to the requesting authority. This is not intended to undermine the effects of the register: it is essential to ensure that disclosures are compatible with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act. In making its decision the authority must consider the nature and seriousness of the conduct which led to the revocation or refusal to renew, and the time that has elapsed since the decision was made.

This will require not only a clear published policy, but also a decision-maker who has sufficient training and knowledge of the requirements to enable him/her to make an informed decision regarding disclosure.

It is suggested that where the time that has elapsed since the revocation or failure to renew exceeds the time limits relating to the particular conduct that are contained in the Institute of Licensing's "Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades"⁷, serious consideration should be given as to whether or not the information should be revealed.

A suggested template policy is attached at Annex D.

To ensure compliance with article 30 of the GDPR, the authority must maintain a clear written record of every disclosure made following a search of the register. This should be a separate document, and it is not sufficient to simply mark an existing register of licences.

⁵ Special category personal data is sensitive data that could reveal someone's racial or ethnic origin, political opinions, religious beliefs, trade union membership, and data concerning health or sex life.

⁶ Found in Parts 1, 2 and 3 of the DPA 2018.

⁷

[https://cplresourcestorage.blob.core.windows.net/documents/226798_Guidance%20on%20Suitability%20ONLINE%20PDF%20\(2\).pdf?sv=2013-08-15&sr=b&sig=sLMffzDNvtMihhMQ2xu1vOIUEQbD1n05TTY%2BrDTv9UM%3D&st=2018-07-17T14%3A28%3A32Z&se=2018-07-17T14%3A34%3A32Z&sp=r](https://cplresourcestorage.blob.core.windows.net/documents/226798_Guidance%20on%20Suitability%20ONLINE%20PDF%20(2).pdf?sv=2013-08-15&sr=b&sig=sLMffzDNvtMihhMQ2xu1vOIUEQbD1n05TTY%2BrDTv9UM%3D&st=2018-07-17T14%3A28%3A32Z&se=2018-07-17T14%3A34%3A32Z&sp=r)

The document must include the fact that disclosure was made, but not specify the contents of that disclosure.

5.4. Acting on detailed disclosures

The licensing authority that receives a disclosure under stage two must then act upon it. As detailed above, the information may warrant significant weight being attached to it, but it is vital authorities do not use evidence of a previous refusal or revocation as the sole basis for their current decision.

To ensure compliance with article 30 of the GDPR, the authority must maintain a clear written record of the action that is taken following the receipt of information from the register. This should be a separate document, and it is not sufficient to simply mark an existing register of licences.

6. Complying with data protection requirements

Licensing authorities will need to ensure that any individuals whose data is uploaded or entered onto NR3 is made aware of this: it is a legal requirement that data subjects must be made aware of the collection, storage and use of their personal data via a privacy notice.

In relation to NR3, the following details must be included in a privacy notice:

- The name and contact details of the licensing authority.
- The contact details of the authority's data protection officer.
- The purpose of the processing.
- The lawful basis for the processing.
- The recipients or categories of recipients of the personal data.
- The retention periods for the personal data.
- The rights available to individuals in respect of the processing.
- The right to lodge a complaint with a supervisory authority.

For current licensees or applicants, authorities should ensure that information about NR3 is included in:

- licensing policies
- application forms
- correspondence to named individuals that confirms that a licence has been revoked, or that an application for a licence has been refused.

These should fulfil the requirements for privacy notices, and suggested wording is provided in Annexes A and B.

Authorities will also need to ensure that they inform individuals in respect of whom a historic decision has been entered onto the register. Again, this correspondence should fulfil the legal requirements for privacy notices, and the LGA has developed a template letter that licensing authorities may wish to use for this purpose (Annex C).

Individuals whose details are contained on the register may submit a 'subject access request' (SAR) seeking copies of their details from the register at any point. **Full details of the process, mechanism and suggested point of contact for submitting a SAR must therefore be included within each local authority's policy, and also contained within application forms and supporting documentation when a licence is issued.** Should a SAR be received by an individual licensing authority, it should be dealt with as per the relevant authority's process. Licensing authorities, as the data controller, will need to liaise with NAFN, as the data processor, to fulfil SARs.

Licensing authorities will need to ensure that anyone whose details are included on NR3 is aware of their rights in relation to their data. In addition to the right to being informed, under the Data Protection Act, data subjects may have other rights in relation to the processing of their data. Various of these rights will apply in relation to the NR3, including: the right to object, the right to request access to data; the right to rectification or erasure of data, and the right to restrict processing of data.

It is important to note that although data subjects have the right to make these requests, the licensing authority does not have to agree to them. The fact that NR3 has been deemed necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller makes it very unlikely that an authority would agree to these rights, other than the rights to access individual data on the NR3 and the rectification of data where an error has been made. However, authorities will need to respond to these requests within thirty days, setting out their decision.

6.1. Updating the licensing policy, application forms and guidance

Licensing authorities will therefore need to update their hackney carriage / PHV licensing policies to reflect the use of the register and the new processes arising from it, including that relevant information on the register will in future be part of the process for assessing licence applications and whether an individual is a fit and proper person.

Authorities will similarly need to update their application forms and related paperwork (such as guidance notes) to make it clear that:

- all applicants will have their details checked against the register, and any relevant information taken into account in assessing the application
- where an application is refused, or where a licence is granted but subsequently revoked, this information will be entered into the register.

These statements should provide assurance that this information will be processed in accordance with the DPA and GDPR. Suggested forms of words are included at Annex A.

Where an authority decides to refuse or revoke a hackney carriage / PHV licence (the first authority), the decision notice should refer to the authority's earlier notification in guidance and on application forms that the decision will be entered onto NR3. It should also make clear that if the individual makes an application to another licensing authority (the second authority) for a drivers' licence at a later date, the second authority will check the register, and the details of the refusal or revocation may be provided to them by the first authority, in line with their policy for disclosing information.

6.2. Making existing licensees aware

As well as new applicants, you will also need to make existing licensees aware of the fact that the authority has signed up to the register, and that if their licence is subsequently revoked or not renewed, this will be recorded. A suggested form of words is included at Annex B.

Annex A – guidance on amendments to policies and forms

Authorities will need to update their application forms and related paperwork (such as guidance notes) to make it clear that:

- all applicants will have their details checked against the register, and any relevant information taken into account in assessing the application
- where an application is refused, or where a licence is granted but subsequently revoked, this information will be entered into the register.

The statements included in forms and guidance should provide assurance that this information will be processed in accordance with the DPA and GDPR. Critically, it should also make clear that there is a lawful basis for processing the data, which is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Where an authority decides to refuse or revoke a hackney carriage / PHV licence, the decision notice should refer to the authority's earlier notification in guidance and on application forms that the decision will now be entered onto the national register.

I. Suggested form of additional wording for licensing policy document and application paperwork

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. 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 – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence

Therefore:

- Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself 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

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of [applying for] [being granted], a hackney carriage / PHV driver licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at [link / set out separately].

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

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 (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

II. Suggested form of additional wording for decision letter concerning refusal of an application

In accordance with [insert appropriate reference to policy document or application paperwork explaining membership and implications of NR3], the decision to refuse your application will be entered onto the National Register of Taxi Licence Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and 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.

Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence in future, but is intended simply to ensure that licensing authorities

are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we may provide our reasons for the refusal of this application, in accordance with our policy at [details/link].

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.

III. Suggested form of additional wording for decision letter concerning revocation

In accordance with [insert appropriate reference to policy document / application paperwork / letter to existing licence holders explaining membership and implications of NR3], the decision to revoke your licence will be entered onto the National Register of Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and 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.

Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence, but is intended simply to ensure that licensing authorities are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we will provide our reasons for the revocation of this licence in accordance with our policy at [details/link].

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.

Annex B – suggested notification to existing licensees of NR3

To all hackney carriage / PHV / dual [combined] licence holders

Dear licensee

National Register of Taxi Licence 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.

As you may be aware, the Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Taxi Licence 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 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 hackney carriage or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the taxi 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. Any relevant data entered onto NR3 which relates to existing licence holders may be considered as part of future renewal processes.

The information recorded on NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- the date of the decision
- the date decision was 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.

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].

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 hackney carriage 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 that 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.

What if my licence is suspended?

Suspensions of licences will not be recorded on NR3. This is because suspension should be used as either a short-term punishment or to overcome a short-term situation (e.g. driving or medical issues). Where a driver is no longer considered to be a fit and proper person to hold a licence, the licence should be revoked.

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 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.

Annex C - 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 organization 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.

Annex D – Suggested template policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3

Once an authority has signed up to the NR3, it is able to search the register when an application is received for a new drivers licence, or to renew an existing drivers licence. In this annex, the searching authority is referred to as 'the second authority.'

If a match is found, then a request can be made to the authority that entered the information onto the NR3 (in this annex, this authority is referred to as 'the first authority') asking for more details of the revocation or refusal of a drivers' licence by the first authority.

The first authority can then provide information to the second authority, enabling the second authority to take the earlier action into account and make an informed decision as to whether or not the licence should be granted or renewed.

To comply with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act, it is essential that the first authority which provides information about entries on the NR3 register, and the second authority that requests and receives such information, have a clear policy detailing how and when such information will be requested, provided, and how any information provided can then be used.

This is a suggested policy to address those situations. As each authority that signs up to the NR3 may at some point be both the first authority and the second authority for the purposes of this policy, the policy is drafted as a chronological progression through the process an authority may work through as either the first or second authority.

Policy for [Council/TfL] 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 [Council/TfL] 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' licence⁸. 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 [Council/TfL] 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.

⁸ 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 [Council/TfL] 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 application⁹.

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 stated¹⁰. 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 determined¹¹.

The data will be held securely in accordance with this authority's [Council/TfL] general policy on the secure retention of personal data [which is available at...]. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's [Council/TfL] general policy on the erasure and destruction of personal data [which is available at...].

⁹ 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.

¹⁰ Any appeal by way of case stated 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.

¹¹ Decisions of the local authority, magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim first arose" (see The Civil Procedure Rules R54.5). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

II. Making a request for further information regarding an entry on NR3¹²

When an application is made to this authority [Council/TfL] for the grant of a new, or renewal of, a taxi driver's licence, this authority [Council/TfL] will check the NR3.

This authority [Council/TfL] will make and then retain a clear written record¹³ 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 [Council/TfL] 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 [Council/TfL] 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 NR3¹⁴

When this authority [Council/TfL] 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 years¹⁵.

This authority [Council/TfL] 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 [Council/TfL] 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

¹² This section of the template policy relates to the submission of a request by the second authority.

¹³ This can be electronic, rather than "pen and paper" hard copy.

¹⁴ This section of the template policy relates to the handling by the first authority of a request for information by the second authority.

¹⁵ This record can be combined with the written record of the action taken as a result of the request.

if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority [Council/TfL] 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 disclosed¹⁶. 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 [Council/TfL] (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

This authority [Council/TfL] 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*"¹⁷ [or own policy if this differs]. 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 [Council/TfL] will make and then retain a clear written record¹⁸ 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.

¹⁶ If the 1st authority is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of the 1st authority and the 2nd authority.

¹⁷ Available at

<https://www.instituteoflicensing.org/NewsJobsArticle.aspx?NewsID=11318&NewsOrJob=news>

¹⁸ This can be electronic, rather than "pen and paper" hard copy.

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 [Council/TfL] 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 [insert reference to the [Council/TfL]'s policy for determining applications].

This authority [Council/TfL] 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 [Council/TfL] 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).

(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 #:

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 / 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 ??.

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: