

Report to: **Licensing Committee**
Date: **23rd August 2018**
Title: **Consideration of an amendment to the Hackney Carriage and Private Hire Licensing policy to adopt a process to check and update the new National Register of Taxi Licence Revocations and Refusals.**
Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: If decision is made to adopt the National Register, the policy will be brought back to Licensing Committee on 1st November.

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Recommendations:

1. That the Committee considers an amendment to the Council's Taxi Licensing Policy to adopt a procedure to consult **National Register of Taxi Licence Revocations and Refusals.**

1. Executive summary

- 1.1 In August 2018 the Local Government Association wrote to all authorities with their guidance on adopting the National Register of Taxi Licence Revocations and Refusals.

- 1.2 The guidance stipulates the procedure a local authority would need to follow in order to provide data for the national register and to access the data ourselves.

2. Background

- 2.1 Following a number of high profile child sexual exploitation cases involving the taxi industry nationally a review was undertaken of the current licensing regime UK wide.
- 2.2 It was recognised that there is no consistency across the country when assessing whether a licensee is a 'fit and proper' person. It was hoped that by setting up a national register of revocations and refusals this would help to increase the consistency of decision making as it would help to prevent individuals moving from one authority to another just because they have been refused a licence or their licence has been revoked.
- 2.3 Unless an applicant for a licence voluntarily discloses that they have previously been refused a licence or had a licence revoked, there is currently no way for an authority to verify this. Potentially vital intelligence about an individual's past behaviour is often lost and they may be able to obtain a licence elsewhere after having a previous licence revoked.

3. Outcomes/outputs

- 3.1 Before we can provide information to the network we will need to write to all previously refused or revoked licensees to inform them that we are seeking to upload their data to the database and to give them an opportunity to make representations against their data being uploaded. Any objections must be considered by the local authority and a determination made of whether the representation is pertinent or not.
- 3.2 The guidance suggests that for data retention purposes a maximum period of 25 years of data is appropriate.
- 3.3 It will also be necessary should the Council adopt the policy to undertake another review of our licensing policy to include mention of this new checking procedure, and to update our application forms, to ensure compliance with the General Data Protection Regulation. The policy will then need to be brought before this committee for approval before adoption by full council.

4. Options available and consideration of risk

- 4.1 Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states:

'Notwithstanding anything in the [Town Police Clauses] Act 1847, a District Council shall not grant a licence to drive a Hackney Carriage

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(c) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence, or

(d) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised'.

- 4.2 The Council's taxi policy has only just been updated and included a tightening of the application process to reflect national good practice, and a revised conviction policy to provide guidance on the relevance of previous convictions. Just because an applicant appears on the register would not automatically bar them from applying for a licence at another authority., That authority would still need to consider the relevance of the reason for the revocation or refusal themselves.
- 4.3 The implementation of policies to adopt the national register is not a mandatory requirement. There will be an amount of resource required to write to all previously refused applicants and revoked licensees, to consider any representations made and to update the policies and forms. It may be felt that the risk of approving a taxi driver who has previously had a licence revoked or an application refused does not outweigh the level of resources required to implement the new national register.
- 4.4 If the reason for the revocation or refusal was due to a criminal conviction then this would appear on the enhanced DBS check that the Council requires as part of our application process.
- 4.5 There is a risk should we not adopt a policy to review the national register that we may be seen as a 'soft touch' for applicants. This could lead to a number of inappropriate applicants using this authority to obtain a driver licence which would allow them to operate elsewhere in the country.

5. Proposed Way Forward

- 5.1 That the Committee consider the guidance in relation to the National Register for Revocations and Refusals.
- 5.2 Having considered the resource implications and the risk of not adopting the national register determine whether to instruct the Licensing Specialist to undertake a review of the Council's Taxi Policy, application forms, and to write to all former taxi driver applicants who have been previously refused a licence or who have had their licence revoked in the last 25 years.

- 5.3 Alternatively the Council could choose to only supply information on refused and revoked licences from the past 6 years, this would be in line with the Council's data retention policy.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		See Para. 4.1. The addition of a policy to check the National Register of Revocations and Refusals as part of an application process would allow the Council to consider whether the applicant has been refused a licence or had a licence revoked elsewhere and obtain information on the reasons for that decision being made.
Financial		There is a cost to the local authority of joining the National Anti Fraud network, who will host the national register. The LGA guidance states that the cost of this can be reclaimed through the taxi licensing fees charged to drivers, should a decision be made to proceed with drafting an amendment to the policy we will also consider the impact on the fees.
Risk		<p>Failure to adopt the national register into policy may lead to a reputational risk to the authority for not following the LGA practice, however this can be off-set by the stringent checks that we already have in place in regards to the suitability of an applicant.</p> <p>There is also the reputational risk that we grant a licence to a driver whom another authority has deemed as being unsuitable, due to the De-Regulation Act that applicant may then still be able to offer some taxi services in that authority area.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		None foreseen.
Safeguarding		There is a slight risk if we do not adopt the national register that the Council could grant a licence to an

		applicant that another authority has deemed unsuitable to be a driver.
Community Safety, Crime and Disorder		None foreseen
Health, Safety and Wellbeing		None foreseen
Other implications		None foreseen

Supporting Information

Appendices:

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

Background Papers:

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes/No
Relevant Exec Director sign off (draft)	Yes/No
Data protection issues considered	Yes/No
If exempt information, public (part 1) report also drafted. (Cabinet/Scrutiny)	Yes/No