



**BOROUGH OF HYNDBURN
HOME OF THE ACCRINGTON PALS**

**NATIONAL REGISTER OF HACKNEY CARRIAGE AND PRIVATE HIRE
DRIVER REVOCATIONS (NR3)**

**POLICY IN RESPECT OF REQUESTS FOR INFORMATION,
DISCLOSURE OF INFORMATION, AND USE OF INFORMATION
AS A RESULT OF AN ENTRY ON NR3**

Introduction

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.

1. Overarching Principles

This policy covers the use that Hyndburn Borough Council will make of the ability to access and use information contained in 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' licence¹. 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.

Hyndburn Borough Council has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed on the register.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received Hyndburn Borough Council will make a search of NR3. The search will only be made by an officer who has been trained in the use of 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. 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 during the appeal process.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of service of the written notification of the determination of the application²

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 to 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' or the Crown Court, it is possible to appeal the decision by way of case stated³. Accordingly, the data will be retained for a period of no more than 35 days.

¹ 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 hackney carriage and private hire joint licence.

² 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).

³ 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.

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 the appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined⁴.

The data will be held securely in accordance with the Hyndburn Borough Council general policy on the secure retention of personal data which is available at www.hyndburnbc.gov.uk/privacy-notice/2. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure of personal data which is available at www.hyndburnbc.gov.uk/privacy-notice/6.

2. Making a request for further information regarding an entry on NR3

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

Hyndburn Borough Council will make and then retain a clear written record⁵ 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 the register of licences granted) and will be retained for the retention period of 25 years.

If the search reveals any match (i.e. there is an entry on 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. The request will include details of our data protection policy in relation to the use of any data obtained during the process.

The 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.

⁴ 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 case no later than 3 months after the grounds to make the 1st claim arose. If an application for judicial review is made after any relevant information has been destroyed, this authority will request the information again and then retain the information until all court proceedings have been determined.

⁵ This will be electronic, rather than 'pen and paper' hard copy

3. Responding to a request made for further information regarding an entry on NR3

When Hyndburn Borough Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for a period of 25 years⁶.

We will then determine how to respond to the request. It is not lawful to simply provide a blanket response to every request.

The Council 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 the 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 the period. It is expected that if the second authority have adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority (the first authority) is satisfied that the other authority's (the second authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed⁷. This will be determined by an officer who is trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibility of a taxi driver. Data is held on the NR3 register for a period of 25 years, but this authority (the first authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

Hyndburn Borough Council will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's "Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades." which has been adopted in full by this Council. A copy of the policy is available at www.hyndburnbc.gov.uk/download-package/iol-guidance-safe-and-suitable. 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 may not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of schedule 1 of the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of functions conferred on the authority by an enactment of rule of law.

⁶ This record may be combined with the written record of the action taken as a result of the request

⁷ If the 1st authority is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made.

The officer will record what action was taken and why. Hyndburn Borough Council will make and then retain a clear written record⁸ of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- how and when the decision (and any information) was communicated to the requesting authority.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

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

When Hyndburn Borough Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications. Please refer to the Institute of Licencing "Guidance on Determining the Suitability of Applicants and Licensees in the Hackney Carriage and Private Hire Trades" which has been adopted in full by this Council and is available at www.hyndburnbc.gov.uk/download-package/iol-guidance-safe-and-suitable

Hyndburn Borough Council will make and then retain a clear written record of the use that is made of the search (this information will be added to the register detailed above).

Information received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that Hyndburn Borough Council will make in relation to the application.

⁸ This will be electronic rather than 'pen and paper' hard copy.

Appendix 1 - Information disclosure form

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

(For completion by requesting authority)

Name of authority requesting information

Requestor authority reference number

Name of authority from which information is sought

Name of individual in respect of whom the request is made

Decision in respect of which request is made: Refusal/Revocation

Other details for this record

D.O.B.

Address

Driving licence number

Any alias

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 the 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 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 can be accessed at [insert link]

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 on 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 the fact that this information will be shared, in accordance with all relevant data and privacy requirements.

Signed:

Name:

Position:

Date:

