



Civic Centre,
Arnot Hill Park,
Arnold,
Nottinghamshire,
NG5 6LU

Agenda

Environment and Licensing Committee

Date: **Tuesday 14 January 2020**

Time: **4.15 pm**

Place: **Council Chamber**

For any further information please contact:

Lorna Mellors

Democratic Services Officer

0115 901 3673

Environment and Licensing Committee

Membership

Chair Councillor Marje Paling

Vice-Chair Councillor Nicki Brooks

Councillor Pat Bosworth
Councillor Boyd Elliott
Councillor Roxanne Ellis
Councillor Des Gibbons
Councillor Julie Najuk
Councillor Sam Smith
Councillor Clive Towsey-Hinton
Councillor John Truscott
Councillor Paul Wilkinson

AGENDA

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- 2 To approve, as a correct record, the minutes of the meeting held on 3 December 2019.** 5 - 8
- 3 Declaration of Interests.**
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Report of the Community Protection Manager
- 5 Any other item which the Chair considers urgent.**
- 6 Exclusion of the Press and Public.**

To move that under Section 100(A)(4) of the Local Government Act 1972 the public and press be excluded from the meeting during consideration of the ensuing report on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.
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Drivers Licence (SZ)

Report of the Director of Health and Community Wellbeing.

MINUTES ENVIRONMENT AND LICENSING COMMITTEE

Tuesday 3 December 2019

Councillor Marje Paling (Chair)

Present: Councillor Nicki Brooks Councillor Des Gibbons
 Councillor Pat Bosworth Councillor Julie Najuk
 Councillor Boyd Elliott Councillor Sam Smith
 Councillor Rachael Ellis Councillor Paul Wilkinson
 Councillor Roxanne Ellis Councillor Andrew Ellwood

Absent: Councillor Clive Towsey-Hinton and Councillor John Truscott

Officers in Attendance: L Mellors, R Pentlow, C Allcock and K Nealon

50 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

Apologies of absence were received from Councillors Towsey-Hinton and Truscott. Councillors Rachael Ellis and Ellwood attended substitutes.

51 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 5 NOVEMBER 2019.

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

52 DECLARATION OF INTERESTS.

None.

53 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

54 EXCLUSION OF THE PRESS AND PUBLIC.

RESOLVED:

That, the Members being satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information that under Section 100(A)(4) of the Local Government Act 1972, the

public and press be excluded from the meeting during the consideration of the ensuing reports on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

**55 APPLICATION FOR A THREE YEAR HACKNEY
CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - IH**

Consideration was given to a report by Director of Health and Community Wellbeing, which had been circulated prior to the meeting, regarding an application for a Joint Hackney Carriage/Private Hire Driver's Licence for IH.

IH attended the meeting along with his friend and former employer who addressed the Committee.

In making its decision, the Committee applied the Council's approved Policy and Guidelines. On the basis of what it heard, the Committee was satisfied on balance that no exceptional circumstances existed which warranted departure from policy.

RESOLVED:

To refuse IH's application for a Joint Hackney Carriage/Private Hire Driver's Licence on the grounds that he is not a fit and proper person.

IH was advised of his right to appeal against the decision of the Committee.

**56 CHANGE OF CIRCUMSTANCES OF HACKNEY
CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - MHA**

Consideration was given to a report of the Director of Health and Community Wellbeing, which had been circulated prior to the meeting, regarding a change of circumstance of a Joint Hackney Carriage/Private Hire Driver's Licence for MHA.

MHA attended the meeting along with his wife, and addressed the Committee.

In making its decision, the Committee applied the Council's approved Policy and Guidelines. On the basis of what it heard, the Committee was satisfied on balance that no exceptional circumstances existed which warranted departure from policy.

RESOLVED:

To revoke MHA's Joint Hackney Carriage/Private Hire Driver's Licence on the grounds of failing his medical examination.

57 APPLICATION FOR A ONE YEAR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - AAR

Consideration was given to a report by the Director of Health and Community Wellbeing, which had been circulated prior to the meeting, regarding an application for a one year Joint Hackney Carriage/Private Hire Driver's Licence for AAR.

AAR attended the meeting and addressed the Committee.

In making its decision, the Committee applied the Council's approved Policy and Guidelines. On the basis of what it heard, the Committee was satisfied on balance that no exceptional circumstances existed which warranted departure from policy.

RESOLVED:

To approve AAR's application for a Joint Hackney Carriage/Private Hire Driver's Licence for one year.

58 APPLICATION FOR A ONE YEAR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - NA

Consideration was given to a report by the Director of Health and Community Wellbeing, which had been circulated prior to the meeting, regarding an application for a one year Joint Hackney Carriage/Private Hire Driver's Licence for NA.

NA attended the meeting and addressed the Committee.

In making its decision, the Committee applied the Council's approved Policy and Guidelines. On the basis of what it heard, the Committee was satisfied on balance that no exceptional circumstances existed which warranted departure from policy.

RESOLVED:

To approve NA's application for a Joint Hackney Carriage/Private Hire Driver's Licence for one year, with a warning regarding his future conduct.

The meeting finished at 5.50 pm

Signed by Chair:
Date:



Report to Environment and Licensing Committee

Subject: The Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019 – Memorandum of Understanding

Date: 14 January 2020

Author: Report of the Community Protection Manager

Purpose

To inform Members of a new statutory requirement being placed on all Local Authorities to submit information to the Department for Environment, Food and Rural Affairs (DEFRA) for the purposes of maintaining a database in relation to all Hackney Carriage and Private Hire Vehicles licensed by them.

Recommendation(s)

THAT:

- 1) Members note the new statutory provisions of the Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019, and associated statutory guidance.**
- 2) Members note the obligations placed on the Council under the Regulations as outlined in the Memorandum of Understanding, signed by the Community Protection and Pollution Control Manager.**

1 Background

- 1.1** The Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) regulations 2019 ("the regulations") came into force on 1st May 2019. The purpose of the Regulations is to place a statutory duty on all Licensing Authorities in England and Wales to submit specific data to DEFRA on a regular basis for the purpose of creating and maintaining a national database of all licensed vehicles.

A copy of the Regulations is attached at Appendix A. The data to be provided and contained in the database is:

- The Vehicle Registration
- The issue date of the licence
- The expiry date of the licence
- Whether the vehicle is a taxi (Hackney Carriage) or a Private Hire Vehicle (PHV)
- The name of the issuing Authority
- The licence number
- Whether the vehicle is Wheelchair Accessible

- 1.2 On 18 July 2019 DEFRA published statutory guidance (the guidance) to assist licensing authorities in implementing the Regulations. It provides details of the data that the council will be required to submit to DEFRA and advice on how the data will be managed in compliance with Data Protection legislation, the background for DEFRA creating the database is contained with the guidance. A copy of the online guidance is attached at Appendix B.
- 1.3 The guidance suggests that the database should be ready for local authorities to start submitting data before the end of 2019. DEFRA have produced a draft technical specifications document to data transfer; a final specification has yet to be released.
- 1.4 DEFRA have produced a Memorandum of Understanding outlining the terms by which the data will be submitted which is attached at Appendix C. This was required to be signed and returned to DEFRA by 13 December 2019.

2 Proposal

It is proposed that Members;

- 2.1 Note the new statutory provisions of the Air Quality (Taxi and Private Hire vehicles Database) (England and Wales) Regulations 2019, and associated Statutory Guidance) in addition the requirement it places on the Authority as a statutory duty to submit the specified data to DEFRA on a regular basis for the purpose of creating and maintaining a national database of all licensed vehicles.

- 2.2 To note the obligations placed on the Council under the Regulations as outlined in the Memorandum of Understanding, signed by the Community Protection and Pollution Control Manager, and returned to DEFRA on 9 December 2019.

3 Resource Implications

- 3.1 None

4 Appendices

- 4.1 Appendix A – Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019

Appendix B – Statutory Guidance

Appendix C – Memorandum of Understanding

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2019 No. 885

**ENVIRONMENTAL PROTECTION, ENGLAND AND
WALES**

**The Air Quality (Taxis and Private Hire Vehicles Database)
(England and Wales) Regulations 2019**

Made - - - -

24th April 2019

Coming into force - -

1st May 2019

The Secretary of State makes these Regulations in exercise of the powers conferred by section 87(1), (2)(c) and (j), and (5) of the Environment Act 1995^(a) (“the 1995 Act”) and paragraph 5 of Schedule 3 to the Government of Wales Act 2006^(b).

In accordance with section 87(7) of the 1995 Act^(c), the Secretary of State has consulted the Environment Agency^(d) and the Natural Resources Body for Wales^(e), such bodies or persons appearing to the Secretary of State to be representative of the interests of local government and of industry as the Secretary of State considers appropriate, and such other bodies or persons as the Secretary of State considers appropriate.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 87(8) of the 1995 Act.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 and come into force on 1st May 2019.

(2) These Regulations extend to England and Wales.

Interpretation

2.—(1) In these Regulations—

“licensing authority” means a body in England or Wales which has functions under one or more of the licensing provisions;

^(a) 1995 c.25; section 87(1) was amended by S.I. 2011/1043.

^(b) 2006 c. 32. The functions in section 87 of the 1995 Act are exercisable by the Welsh Ministers in relation to Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006, but remains exercisable by the Secretary of State under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 for the purpose of implementing any EU obligation of the United Kingdom.

^(c) Section 87(7) was amended by S.I. 2013/755.

^(d) The Environment Agency was established by section 1 of the 1995 Act.

^(e) The Natural Resources Body for Wales was established by article 3 of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I. 2012/1903).

the “licensing provisions” are—

- (a) section 37 of the Town Police Clauses Act 1847(a);
- (b) section 6 the Metropolitan Public Carriage Act 1869(b);
- (c) section 5 of the Plymouth City Council Act 1975(c);
- (d) section 48 of the Local Government (Miscellaneous Provisions) Act 1976(d); and
- (e) section 7 of the Private Hire Vehicles (London) Act 1998(e);

“relevant vehicle” means a vehicle licensed under a licensing provision.

Duty to provide taxi and private hire vehicle information

3.—(1) A licensing authority must provide information to the Secretary of State in accordance with this regulation.

(2) The information to be provided is, in relation to every relevant vehicle in respect of which a licence is granted under one of the licensing provisions by that licensing authority—

- (a) the vehicle registration mark of the vehicle;
- (b) the date from which the licence has effect;
- (c) the date on which the licence is due to expire;
- (d) a statement as to whether the vehicle is a taxi or a private hire vehicle;
- (e) such other information the licensing authority holds in relation to the vehicle that may be relevant for the purposes of ensuring the accurate identification of vehicles, having had regard to any guidance issued by the Secretary of State.

(3) The licensing authority must provide the information at least as frequently as once a week.

(4) For the purposes of this regulation—

“private hire vehicle” means a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998;

“taxi” means a vehicle licensed under section 6 of the Metropolitan Public Carriage Act 1869 or section 37 of the Town Police Clauses Act 1847;

“vehicle registration mark” means the mark assigned to the vehicle under section 23 of the Vehicle Excise and Registration Act 1994(f).

Database containing the information provided under regulation 3

4.—(1) The Secretary of State may create a database of the information received under regulation 3, in accordance with this regulation.

(2) An entry in relation to a relevant vehicle in a database under paragraph (1) must include only—

- (a) the name of any licensing authorities with which the relevant vehicle is licensed; and
- (b) the information provided under regulation 3 in relation to that vehicle.

(3) The Secretary of State may share the information contained within the database with a licensing authority for the purposes of enforcing measures implemented—

- (a) pursuant to plans prepared under—

(a) 1847 c. 89 (10 & 11 Vict). Section 37 was modified by section 15 of the Transport Act 1985 (c. 67).

(b) 1869 c. 115 (32 & 33 Vict). Section 6 was amended by paragraph 5(3) of Schedule 20 to the Greater London Authority Act 1999 (c. 29) and S.I. 2014/560.

(c) 1975 c. xx.

(d) 1976 c. 57. Section 48 was amended by section 4 of, and paragraph 16(1) of Schedule 3 to, the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(e) 1998 c. 34.

(f) 1994 c. 22.

- (i) regulation 26 of the Air Quality Standards Regulations 2010(a); or
 - (ii) regulation 20 of the Air Quality Standards (Wales) Regulations 2010(b);
 - (b) by that licensing authority for the purposes of improving air quality in its area.
- (4) For the purposes of paragraph (3) a measure implemented jointly by more than one licensing authority is to be treated as having been implemented by each of the participating licensing authorities.

24th April 2019

Thérèse Coffey
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England and Wales, make provision about information relating to taxis and private hire vehicles as part of the aim of securing compliance with Articles 13(1) and 23(1) of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.

Regulation 3 requires certain bodies to provide to the Secretary of State information relating to each taxi and private hire vehicle which they have licensed to operate.

Regulation 4 enables the Secretary of State to create a database containing the information received under regulation 3, and allows the sharing of that information for the purposes of enforcing measures which have been implemented pursuant to an air quality plan or for the purposes of improving air quality.

A regulatory triage assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is available and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk. Hard copies can be obtained from the Department for Environment, Food and Rural Affairs, Seacole Building, 2 Marsham Street, London SW1P 4DF.

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(a) S.I. 2010/1001.
(b) S.I. 2010/1433 (W.126).

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The Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019: Statutory guidance

Published 18 July 2019

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1. Introduction

Status of guidance

1.1) This guidance has been issued in order to assist local licensing authorities in the implementation of the [Air Quality \(Taxi and Private Hire Vehicles Database\) \(England and Wales\) Regulations 2019](#) (2019 No. 885) (“the Regulations”).

1.2) It provides advice on the data that licensing authorities must provide in relation to all vehicles operating as taxis and private hire vehicles (PHVs) registered by the authority, the format in which it is transferred and the way in which the data will be handled in compliance with the General Data Protection Regulation (GDPR).

1.3) The Secretary of State may use the data to create a Taxi and PHV Centralised Database (“the database”).

1.4) This statutory guidance is issued under section 88(1) of the Environment Act 1995¹. Licensing authorities (those defined in regulation 2(1) of the Regulations) are under a statutory duty to have regard to this guidance as set out under section 88(2) of the Environment Act 1995.

1.5) It is for licensing authorities to ensure that they have complied with any data protection legislation when implementing their obligations under the Regulations. This document provides some general guidance for assistance but licensing authorities are advised to seek their own legal advice on how their procedures will comply with data protection requirements.

2. The law in practice

Background

2.1) In 2017, the government published the [UK plan for tackling roadside nitrogen dioxide concentrations](#) followed by a supplement in 2018 (together “the plan”). The plan identified 61 local authorities in England showing exceedances which have been required to carry out feasibility studies and if necessary, develop bespoke plans to bring roadside concentrations of nitrogen dioxide within legal limits in the shortest possible time. The Welsh Government is taking the same approach with two local authorities in Wales.

2.2) Clean Air Zones (“CAZs”) will have a key role to play in delivery of a number of these local plans. The [Clean Air Zone Framework](#) sets out the minimum requirements for a CAZ and the expected approach to be taken by local authorities when implementing and operating these zones. CAZs are not required to include a charging element. However, where there are no other viable options to reduce air pollution to legally permissible levels in the shortest possible time, some local authorities may decide to introduce zones where vehicle owners are required to pay a charge to enter, or move within, a zone if they are driving a vehicle that does not meet the particular minimum emission standard for their vehicle type in that zone.

The Framework sets out four classes of charging CAZ:

Class A - Buses, coaches, taxis and private hire vehicles (PHVs)

Class B - Buses, coaches, taxis, PHVs and heavy goods vehicles (HGVs)

Class C - Buses, coaches, taxis, PHVs, HGVs and light goods vehicles (LGVs)

Class D - Buses, coaches, taxis, PHVs, HGVs, LGVs, cars (motorcycles and mopeds are optional).

Each vehicle type is expected to reach the following minimum standards:

- Euro 4 for petrol driven vehicles (Euro IV for larger vehicles)
- Euro 6 for diesel driven vehicles (Euro VI for larger vehicles)

Ultra-low emission vehicles with significant zero emission range will never be charged for entering or moving through a CAZ.

2.3) Leeds and Birmingham will be introducing charging CAZs in 2020 (class B and D respectively). A number of other authorities have also consulted on the introduction of a charging CAZ. To implement these schemes, local authorities may need to differentiate between taxis/PHVs and private vehicles. This is because in some cases local authorities will implement CAZs that apply charges to taxis and PHVs and not to private vehicles, or they may wish to set a different level of charge for these vehicles. Licensing authorities only hold information on taxis and PHVs licensed within their own area so are not able to clearly identify and charge a taxi/PHV entering or moving around their charging CAZ which has been licensed by another authority (also known as ‘out of area vehicles’). If local authorities cannot identify all out of area vehicles then this would undermine their ability to effectively operate CAZs where charging of these vehicles has been determined to be necessary.

2.4) The Regulations therefore require all licensing authorities in England and Wales to submit certain information about their licensed taxis/PHVs to the database. Licensing authorities are responsible for ensuring that the data which they provide is accurate, legitimate and up to date.

Duty to provide taxi and private hire vehicle information

3.—(1) A licensing authority must provide information to the Secretary of State in accordance with this regulation.

(2) The information to be provided is, in relation to every relevant vehicle in respect of which a licence is granted under one of the licensing provisions by that licensing authority—

- (a) the vehicle registration mark of the vehicle;
- (b) the date from which the licence has effect;
- (c) the date on which the licence is due to expire;

- (d) a statement as to whether the vehicle is a taxi or a private hire vehicle;
 - (e) such other information the licensing authority holds in relation to the vehicle that may be relevant for the purposes of ensuring the accurate identification of vehicles, having had regard to any guidance issued by the Secretary of State.
- (3) The licensing authority must provide the information at least as frequently as once a week.
- (4) For the purposes of this regulation—

“private hire vehicle” means a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998;

“taxi” means a vehicle licensed under section 6 of the Metropolitan Public Carriage Act 1869 or section 37 of the Town Police Clauses Act 1847;

“vehicle registration mark” means the mark assigned to the vehicle under section 23 of the Vehicle Excise and Registration Act 1994.

Database containing the information provided under regulation 3

- 4.—(1) The Secretary of State may create a database of the information received under regulation 3, in accordance with this regulation.
- (2) An entry in relation to a relevant vehicle in a database under paragraph (1) must include only—
- (a) the name of any licensing authorities with which the relevant vehicle is licensed; and
 - (b) the information provided under regulation 3 in relation to that vehicle.

The data licensing authorities will need to provide

2.5) The following diagram shows the taxi and PHV data upload process whilst the table sets out the eight data fields and the rationale as to why the data is required. The database forms part of the wider digital infrastructure that is being developed to support the introduction of charging CAZs.

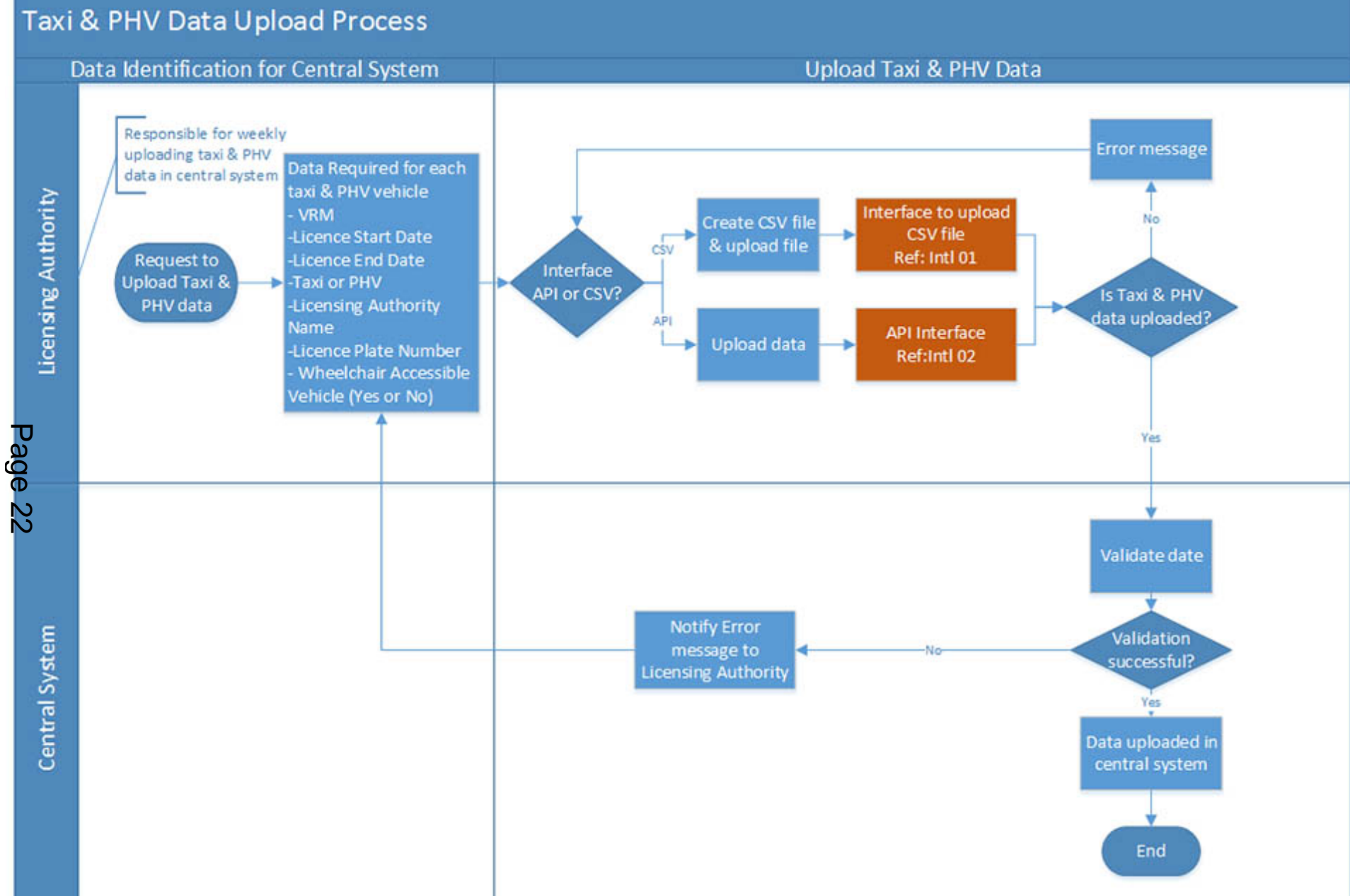


Figure 1: Flow diagram showing the process for uploading taxi and PHV data

Table 1: The data we will be collecting and why the data is required

Number	Data field	Description	Rationale
1	VRM	Vehicle Registration Mark	The vehicle registration mark is used as the primary way of matching a vehicle CAZ entry to a taxi or PHV licence and thereby identifying the vehicle as a taxi or PHV.
2	Start	The date a taxi / PHV licence is valid from	Start date is required to identify the validity of the taxi licence at the time of entrance to a CAZ. This will help support the appeals process.
3	End	Expiry date of taxi / PHV licence	End date is required to identify the validity of the taxi licence at the time of entrance to a CAZ. Will also support appeals process
4	Taxi or PHV	A field to denote whether the vehicle is a taxi or private hire vehicle e.g. 'taxi' or 'PHV'	Will allow local authorities to operate local exemptions for taxis and or PHVs when used as private vehicles if they so wish
5	Licensing authority name	The name of the submitting licensing authority	This is required in order to allow a vehicle in the Taxi and PHV Centralised Database to be traced to its originating licensing authority. This will support the appeals process.
6	Licence plate number	The unique reference to the licence number granted (by the Licensing Authority) to a vehicle e.g. PCO 1.	The unique reference to identify a specific licence as granted to a licensed taxi or PHV by a licensing authority. This, along with the VRM will aid identification of a vehicle as part of an appeals process.
7	Wheelchair accessible vehicle (flag)	WAV (Wheelchair Accessible Vehicle)	Although not a legal requirement to capture this information, in practice many licensing authorities do record it as they are encouraged to publish a list of WAVs in accordance with the Equality Act Section 167. Licensing authorities should provide a flag, where possible, to indicate whether a Taxi/PHV is a Wheelchair Accessible Vehicle or not.

Format for transfer of data

2.6) There will be two interfaces for licensing authorities to use when uploading Taxi/PHV data:

- Application Programming Interface (API) – Licensing authorities to integrate directly with the central system and send data asynchronously, as and when a data update is made. We would expect licensing authorities to send the data this way and if they are not able to do so then they should plan how this will be achieved over time. We are aware that a fully integrated API solution is unlikely to be achievable by the end of 2019.
- CSV Upload – A secure area will be provided for the upload of data by licensing authorities. The licensing authority will then authorise themselves (credentials will be provided) to gain access to the secure drop zone and upload their taxi and PHV data.

2.7) A draft technical specification for API and CSV upload is available at Annex A. A final version of the technical specification will be made available later in 2019, ahead of the upload of data by licensing authorities, which is envisaged to start from the end of October 2019.

Frequency of data upload

2.8) The Regulations require data to be sent on a weekly basis as a minimum. Where licensing authorities can provide this on a more frequent basis then they should do so.

2.9) Requests to the API will be limited to 20,000 vehicle details per request. For consumers who wish to supply vehicle data which exceeds this limit, please contact the project team at TaxiandPHVCentralised.Database@defra.gov.uk for further information.

Memorandum of Understanding

2.10) A Memorandum of Understanding (MoU) (see template at Annex B) will be needed between Defra (as the data controller) and the licensing authority before any data can be received. Licensing authorities should sign the MoU and return to TaxiandPHVCentralised.Database@defra.gov.uk as soon as possible.

Appeals against Penalty Charge Notices

2.11) The appeals process is the responsibility of the local authority operating the charging CAZ and must be managed in line with the Traffic Management Act 2004. Licensing authorities may be approached by the local authority who has issued a Penalty Charge Notice (PCN) in relation to a taxi or PHV they have licensed. For example, to check suspension details.

Suspensions

2.12) Where a taxi or PHV licence is suspended, licensing authorities must ensure that data provided to the database is accurate, legitimate and up to date. This includes removing records of those vehicles which have been suspended or revoked by the licensing authority as soon as is practically possible.

2.13) In the case of appeal of a PCN the onus is on the registered keeper to provide proof of the suspension, using the locally issued 'suspension notice'.

3. Data governance

3.1) Licensing authorities are responsible for informing those whom they license of the use of their data. It is for authorities to seek their own legal advice to ensure that their procedures comply with data protection requirements including providing fair processing information to individuals at the point that their personal data is collected. Licensing authorities will need to review their policies on this. This could include written communication with existing licence holders and a change in application forms for new applicants.

3.2) Licensing authorities may wish to consider the use of a statement setting out their policy. This statement should cover the following (and any other information that the licensing authority determines is necessary) –

- whether information on licensees is already publically available
- if data subjects have been informed their information will be shared and how this has been done. This could be by placing a statement in the application form or a privacy notice. Further information can be found at <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-be-informed/>
- a statement noting applicants' personal data will not be disclosed except in certain circumstances, such as where required by law e.g. in relation to sharing of data to the database
- if applicants have been informed of how their data will be processed as a result of their licence application and ongoing licensing
- date of the last data protection legislation review and when the next review is due

Data management

3.3) In line with the GDPR, Defra will be the Data Controller with responsibility to determine the purpose for which and the manner in which any personal data are, or are to be processed.

3.4) As a minimum the following data management concept must be followed by licensing authorities to ensuring high data quality and comprises five key points:

1. Data quality

- a. They must ensure all data collected is completed in a clear and uncontaminated manner.
- b. Data collected will be accurate and collected legitimately

2. Privacy, security and compliance

a. Privacy, the requirements of the UK's data privacy legislation will apply to all aspects of data processing activities completed by them

- They will complete the MoU (see template at Annex B)
- Data will not be transferred outside of the UK
- The Law Enforcement Directive (LED) as identified within the Data Protection Act 2018 will be used for enforcement purposes
- Data retention – data will be retained for a period of seven years, for revenue purposes. Aggregated data may be retained for historic scientific analysis.
- Aggregated data means information which has been collated for monthly reports.
- Historical aggregated data will be retained indefinitely for scientific purposes.
- Data Subject access requests / FOI to be processed by licensing authority records to be sent to Defra

b. Security

- All administration passwords will be changed on installation and unique to the licensing authority
- Passwords will be reset as per industry standards (ISO 27001)
- All CCTV data storage systems will be penetration and vulnerability tested at least annually, using an Architectural Targeted Operating Model approach.
- Anti-virus software will be up to date at all times
- Authorised user levels will be identified and documented

3. Master data Management

a. Licensing authority will document all processes related to the Regulations. Processes will include, training requirements, administration levels as well as certification to cyber essentials as a minimum, DBS checks for staff working on the system

b. Training in data protection will be completed annually for all staff. Training records held by each licensing authority.

c. Audit and review, will be completed annually, audit reports to be sent to the Defra data protection team at dpo@defra.gov.uk

4. Data Stewardship

a. Defra Data Protection Officer (DPO), Data Protection Manager (DPM) and the Data Protection Subject Matter Expert (SME) may provide guidance from time to time.

5. Data architecture

a. All new hardware will be updated as per manufacturers requirements

b. Software patches will be no more than one version behind the newest issue

1. The functions under s.88 (1) of the Environment Act 1995 are exercisable by the Welsh Ministers by virtue of Section 2 and Schedule 1 of The National Assembly for Wales (Transfer of Functions) Order 1999. [e](#)

MEMORANDUM OF UNDERSTANDING

Between:

Department of Environment, Food and Rural Affairs (Defra)

AND

Gedling Borough Council

In respect of:

Provision of taxi and private hire vehicle licensing data as required by the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019

DEFINITIONS

Data Protection Legislation: the GDPR, the LED, the DPA 2018 and any applicable national implementing Laws as amended from time to time, and all applicable Law about the processing of personal data and privacy;

Controller, Processor, Processing, Data Subject, Personal Data, Special Categories of Personal Data, Personal Data Breach, Data Protection Officer take the meaning given in the GDPR.

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by either party under this MoU, and/or actual or potential loss and/or destruction of Personal Data in breach of this MoU, including any Personal Data Breach.

Data Subject Access Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018: Data Protection Act 2018

GDPR: the General Data Protection Regulation (*Regulation (EU) 2016/679*)

LED: Law Enforcement Directive (*Directive (EU) 2016/680*)

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

Sub-processor: any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement.

Licensing Authority: the licensing authority who is party to this agreement, [INSERT NAME OF LICENSING AUTHORITY]

Air Quality Regulations: the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019

1. Parties to this Memorandum of Understanding

1.1. The Parties to this Memorandum of Understanding (MoU) are the Department of Environment, Food and Rural Affairs (Defra) and the Licensing Authority.

2. Purpose of this MoU

2.1. The Purpose of this MoU is to clarify how the Parties will meet their respective obligations under Data Protection Legislation in relation to the processing of Personal Data as necessary to meet the requirements of the Air Quality Regulations. It explains how the parties will co-operate to ensure compliance with all relevant legislation.

3. Description of the Data and method of sharing

3.1. The Air Quality Regulations specify the data that The Licensing Authority is required to share with Defra – the Data

3.2. The Air Quality Regulations specify the minimum frequency at which the Data must be shared with Defra. The Data must be transmitted to Defra at least once a week and additionally as requested for database development.

3.3. The Licensing Authority will transfer the Data to Defra using either an Application Programming Interface (API) or a CSV upload. In executing the transfer, both parties will comply with the security arrangements described in clause 9.

4. The Licensing Authority's legal basis under the GDPR for sharing the Data with Defra

4.1. The legal basis under Data Protection Legislation for The Licensing Authority to share Personal Data with Defra and Defra's further processing of the Personal Data for the Purpose is Article 6(1)(c) of the GDPR – i.e. the processing is necessary for compliance with a legal obligation to which the controller is subject.

5. Accountability

5.1. Defra is a separate Controller for the Data once received from The Licensing Authority and is responsible as a Controller for complying with Data Protection Legislation in relation to its further processing of the Data.

6. Fairness and Transparency

6.1. Both parties will provide appropriate privacy notices to data subjects, in accordance with the requirements of the GDPR and all relevant good practice guidance issued by the Information Commissioner's Office. Specifically, The Licensing Authority will inform data subjects that Licensing Authorities are required by Law to share the Data with Defra so that Defra can create a database. Defra may, under contracts or similar agreements, use third party organisations to process the data on its behalf. This will include the creation and provision of the database to support local authorities' ability to charge in relation to clean air zones.

7. Accuracy of Shared Data

7.1. The Licensing Authority will take all reasonable steps to ensure the accuracy and currency of the Data before it is transmitted to Defra. Where the Licensing Authority becomes aware of inaccuracies in the Data after its transmission to Defra, it will notify Defra of those inaccuracies as soon as reasonably practicable after the discovery and the parties will agree a suitable rectification plan.

7.2. Defra will take all reasonable steps to maintain the accuracy and currency of the Data and will notify The Licensing Authority if it becomes aware of any significant inaccuracies.

8. Retention of Shared Data

- 8.1. Defra will retain the Data for a period not exceeding seven years for revenue purposes from the date received from The Licensing Authority subject to any relevant exemptions under Data Protection Legislation. Aggregated data may be retained for historic scientific analysis. Aggregated data means information which has been collated for monthly reports. Historical aggregated data will be retained indefinitely for scientific purposes.
- 8.2. The data will be held securely by Defra on Amazon Web Services within the London region. At the end of that retention period, Defra will arrange for the secure destruction or deletion of the Data in accordance with set procedures.

9. Data Security

- 9.1. The Licensing Authority will ensure the safe transmission of the Data to Defra, in accordance with the security requirements of Data Protection Legislation and industry good practice.
- 9.2. Defra will ensure that its Processing of the Data meets the requirements of Data Protection Legislation, HMG Security Policy Framework and Defra's Personal Information Charter.

<https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs/about/personal-information-charter>

These same requirements shall apply equally to any Processor contracted by Defra.

10. Data Processors

- 10.1. Defra will ensure that the requirements of Article 28 and 29 are met in relation to the use of a Processor or Sub Processor for the processing of the Data.

11. Transfer of the Data

- 11.1. Defra agrees not to transfer the Data (including access to the Data) to any country outside the UK without the prior consent of The Licensing Authority. This includes transfers of the Data by or to a Processor or Sub Processor used by Defra.

12. Data subjects rights

- 12.1. Each party will answer any data subject rights requests that are made to them for Data that they are processing as a Controller, in accordance with their obligations under the GDPR.

13. Freedom of Information (FOI) and Environmental Information (EIR) Requests

- 13.1. Each party will answer any FOI or EIR requests that they receive for information about: the Data for which they are the Controller; the Air Quality Regulations; or this MoU.
- 13.2. The party who has received the request will consult the other party where disclosure of information could impact on the interest of the other party.
- 13.3. The party who has received the request will take into account the views of the other party before deciding whether or not to disclose the information. Specifically, they will:
- 13.4. Allow the other party a period of at least 5 working days to respond to the consultation;
- 13.5. Not disclose any personal data that would breach Data Protection Legislation; and
- 13.6. Not disclose information that would prejudice either the security of the Data or the security arrangements of the other party.

14. Audit and Inspection

- 14.1. Defra reserves the right to carry out a review of The Licensing Authority's compliance with its obligations under the Air Quality Regulations and The Licensing Authority agrees to cooperate fully with any such review. Defra will give 28 days' notice of such a review.
- 14.2. Defra will share with The Licensing Authority the outcome of any audits or reviews that have been carried out on its activities as a Controller, to the extent that they have relevance to the processing of the Data received from The Licensing Authority.
- 14.3. Defra will notify The Licensing Authority of any audits that are being carried out by the Information Commissioner's Office under Data Protection Legislation, to the extent they have relevance to the processing of the Data received from The Licensing Authority.

15. Data Loss Event

- 15.1. In relation to Data received from The Licensing Authority, Defra will notify The Licensing Authority immediately of any serious Data Loss Event that meets the threshold for notification to the Information Commissioner's Office or affected Data Subjects. Such notification will be to a contact nominated by the Licensing Authority. Less serious incidents will be reported on a monthly basis.

16. Agreement and signatories

- 16.1. The parties will review the terms of this MoU on an annual basis, or sooner if necessary to reflect a material change to any of the provisions in this MoU.
- 16.2. The parties enter into this MoU intending to honour its provisions, but the MoU does not constitute a legally binding contract and it does not affect the obligations that each party has under the legislation referred to in this MoU.

Signed on behalf of:

Defra

Gedling Borough Council

.....



[name and position]

Kevin Nealon

**Community Protection and
Pollution Control Manager,
Public Protection Service**

Date

Date

.....

09th December 2019

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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