

APPENDIX 4

SAFEGUARDING, CONTRACT COMPLIANCE AND DRIVER'S SAFETY CODE

This document is issued to all suppliers and forms part of Lancashire County Council's Safeguarding Procedures. Adherence to these procedures will help protect the children and vulnerable adults who use our services, as well as providing advice and guidance for suppliers and their employees in the discharge of their Safeguarding responsibilities. The contents will also assist suppliers to ensure that they and their employees meet and understand the County Council's Contract Compliance requirements.

Please do not dismiss this document, the requirements shown herein are an absolute and any failures or breaches of Safeguarding or Contract Compliance Procedures can lead to serious disciplinary sanctions being applied to supplier or employee, up to and including summary dismissal from the contract or, in respect of employees, permanent exclusion from the operation of Lancashire County Council contracted services.

It is in the interest of your company to ensure that all employees providing Lancashire County Council contracted bus and taxi services are fully aware of the County Council's Safeguarding and Contract Compliance requirements, detailed in this document.

It is an absolute requirement that all drivers whether on escorted or unescorted contracts are fully aware of the instructions as detailed on page 5 and page 6 of this document.

Issued May 2019

BD/ITS/DPS

APPLICATION OF LANCASHIRE COUNTY COUNCIL ENHANCED DBS CLEARANCE PROCEDURES

Drivers of all Lancashire County Council **unescorted** contracted Bus, Taxi or Private Hire services must have an Enhanced Disclosure and Barring Service (DBS) Clearance produced by Lancashire County Council (LCC).

Operators are required to provide information on convictions of any description in respect of any driver used in connection with the Contract.

Operators using an uncleared driver on an unescorted bus or taxi/private hire service render themselves liable to serious disciplinary action, in the first instance a Remediation/Default Notice; further infringements can lead to Instant Dismissal from a contract. Where an operator persistently uses an uncleared driver or drivers, the County Council can dismiss the operator from all LCC contracted services and remove the operator from the County Councils list of contractors.

- It is an absolute requirement that drivers operating the Authority's school bus, taxi or private hire services on unescorted journeys wear, on open display, the LCC DBS Identity Badge issued to them.
- Service Providers are expected to have control procedures in place to ensure that their drivers wear their LCC DBS Identity badge during contract operations. Service Providers who allow their drivers to operate without displaying this badge will render themselves liable to disciplinary action.

What to do if in an emergency you do not have an LCC cleared driver available.

- Service Providers must ensure that every effort is made to provide DBS cleared drivers to operate the Authority's unescorted Integrated Transport Services contracts. The Authority recognises that there may be a rare instance where the Service Provider, at the last moment, is unable to provide a DBS cleared driver for a particular bus/taxi journey and that no spare DBS cleared driver is available.
 - In such a case, the Service Provider must use every endeavour to reduce any potential safeguarding risk, for example, by providing a second driver, supervisor or other member of staff to accompany the un-cleared driver, or hiring in another contractor from the ITS Framework with an LCC enhanced DBS cleared driver. The operator should inform LCC immediately if this action is followed. The ITS offices are usually manned from 07.30 until 17.30. Any notification prior to 07:30 should be made by email. Please see contact numbers and email addresses on page 8
 - In the extremely unlikely event that there are no employees available to accompany an un-cleared driver, then the service must operate, though, again, the operator should inform LCC immediately that a non LCC cleared driver is to be used.
- For clarity, the two options above must only be used in an absolute emergency.
- Operators must ensure that their control or supervisory staff are fully aware of the circumstances in which an un-cleared driver can be used. The circumstances and justification surrounding the use of un-cleared drivers will need to be demonstrated to LCC on each and every occasion.
- Where a contract changes from an escorted journey to an unescorted journey (i.e. with a Lancashire County Council employed passenger assistant on board to no passenger assistant on board) the Authority will contact the operator by letter or email informing them that the contract requirement has changed and a driver with LCC Enhanced DBS clearance is required. The operator should be sent a new schedule which states that an LCC DBS cleared driver must be used at all times.

CONTRACTOR DBS ADMINISTRATION

Operators should be aware that Lancashire County Council will not pay for any enhanced DBS clearances.

Lancashire County Council's requirement for all drivers of unescorted Integrated Transport Services contracts (that is where there is no passenger assistant is provided) to have a Lancashire County Council Enhanced DBS clearance forms an intrinsic part of the County Council Safeguarding procedures.

It is the responsibility of operators to ensure that they employ sufficient LCC Enhanced DBS cleared drivers to operate all County Council contracted services where there is no passenger assistant employed for the journey and as part of this responsibility operators should ensure that their drivers apply in sufficient time to ensure that applications for renewed Enhanced DBS Disclosures and replacement DBS Identification Badges can be processed and issued **before their current DBS expires.**

The County Council does not issue DBS renewal reminders, the responsibility resting with the operator. Operators must ensure that they have a robust DBS administration system in place to ensure that expiring DBS's are identified in sufficient time, we would suggest at least 12 weeks before the expiry of an existing clearance. This will ensure that applications can be processed and forwarded to DBS office in sufficient time to ensure the driver has his/her replacement DBS ID badge ready before the current DBS ID badge expires.

Maximum number of drivers that can be cleared per unescorted contract

Where an operator does not have any LCC DBS enhanced cleared drivers, the Authority will allow a maximum of two drivers to be cleared in order to allow the operator to tender for unescorted journeys. These drivers will be known as 'pool drivers' until they are allocated contracts. Once an operator has been awarded an unescorted journey s/he may apply for additional driver clearances. The maximum number of drivers that can be cleared is 10 per unescorted contract.

Late applications

Where an application for a renewed DBS is sent in late and the current DBS ID badge expires before the replacement is received, that driver cannot be used on any County Contract requiring an Enhanced DBS cleared driver.

Operators who use an uncleared driver

Where an operator knowingly uses an uncleared driver on a contracted service, the County Council will view such an offence as Gross Misconduct and as such will impact on the repute of the contractor and a serious disciplinary sanction which may include dismissal from the relevant contract will be applied.

Similarly, where an uncleared driver is used and it is discovered the operator is not aware that the driver's DBS has expired due to an internal or system failure, both driver and operator render themselves liable to disciplinary action by the Authority.

Changes in employment

Where a driver with a DBS Identification badge leaves the Operator's employment, the Operator must inform the Authority without delay, providing, if possible, details of any new employer. (Please see the Contact Details on page 7).

Where an Operator employs an individual who already possesses an LCC DBS Identification badge, the Operator must inform the Authority without delay.

If there is a lapse of more than 12 weeks (84 days) between a driver leaving one employer and the Authority being informed that s/he is now driving for another employer, that driver will be deemed to have had a break in employment. Should the driver wish to drive on unescorted journeys s/he will have to undergo another LCC Enhanced DBS clearance. S/he will not be

entitled to drive on unescorted contracts until clearance has been confirmed and a new badge issued.

Where an employee, who has been issued with a DBS Identification badge and no longer wishes to accept contracted work provided by the Authority, the Operator must inform the Authority immediately, recover the LCC DBS Identification badge and return the badge to the Authority.

For your information, the Office of the Traffic Commissioner has requested that all Local Authorities advise them of any instances where operators use a non-DBS cleared driver on a County Council contracted service which requires a DBS cleared driver.

If you have a robust DBS administrative system in place which is used responsibly, this should ensure that at all times you have sufficient LCC DBS cleared drivers to provide County Council contracted services.

Operators must ensure that managers, supervisors and any members of staff involved in contract operation fully understand the Authority's requirements shown within Clause 15 (Safeguarding) of the Call-off Terms and paragraph 8 of Schedule 1 (General Specification) to this agreement, paying particular attention to paragraph 4 of Schedule 1 (General Specification) to this agreement which states that:

By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (SI 1975/1023) (as amended), the provisions of sections 4(2) and 4(3) (b) of the Rehabilitation of Offenders Act 1974 do not apply to persons whose employment means that they are working in a "regulated activity" within the meaning of the Protection of Freedoms Act 2012 (this covers persons whose employment involves driving Vehicles conveying children in connection with the Services).

If you have any questions regarding the County Council's Safeguarding Procedures, including the provision of the driver's DBS Identification badge, please do not hesitate to contact the County Council. See the Contact List on page 7.

SEAT BELTS

The 'taxi' exemption clause regarding drivers not having to wear seatbelts contained in the Local Government (Miscellaneous Provisions) Act 1976, and as amended, does not apply to Lancashire County Council contracts. All drivers must wear their seatbelts when on contract to the Authority

DRIVER CERTIFICATES OF PROFESSIONAL COMPETENCE (PCV DRIVERS)

Employers and managers must ensure that PCV drivers are aware that they must carry the Driver Qualification Card (DQC) with them when driving professionally. The driver will be required to show their DQC to LCC officials upon request.

CHILD SEAT RESTRAINTS: HOME TO SCHOOL TRANSPORT

Further to the provision of child seat restraints on certain ITS contracts the County Council's instructions and requirements in respect of child seat restraint provision is set out below.

Please ensure that your drivers, supervisors and managers are fully aware of these requirements.

Current legislation makes it a legal requirement for drivers of passenger vehicles with up to 8 passenger seats plus the driver's seat to use appropriate child seat restraints (that is booster seats or booster cushions) for children under the age of 12 and under 135cm (4 feet 5 inches) in height.

The County Council takes the view that pupils on booster seats/cushions should not travel in a front seat of a vehicle without prior agreement by the County Council, other than in exceptional circumstances which must then be reported to the Authority.

Parents are expected to keep booster seats/cushions and other equipment

e.g. specialist wheelchair securing equipment overnight and pupils (or their parents/carers) will bring them to the vehicle each morning.

The legislation makes it clear that drivers are ultimately responsible for the correct fitting of booster seats/cushions before a pupils journey begins. Construction and Use Regulation 100 states that the security of the 'load' is the responsibility of the driver. In this instance the 'load' is deemed to be the passenger and any seat, harness or other equipment being carried. This responsibility cannot be transferred to the passenger assistant.

Upon arrival at school, drivers will remove booster seats/cushions/equipment from the vehicle and take into school for storage ready for the homeward journey.

It is extremely important that you disseminate this information to the drivers providing contracts requiring the use of booster seats/cushions.

Manual Entrance Door Minibuses Used On Contracted Services

Contractors utilising minibuses not equipped with power doors on County Council Contracts must ensure that all drivers driving this type of minibus are fully aware of the County Councils requirements that must be adopted when operating this type of vehicle.

It is the driver's responsibility to ensure that all passengers are able to board or leave the vehicle in a safe manner. Passengers must not be allowed to open and close the entrance door themselves. On every occasion the driver must leave the driving seat and open and close the door for the passengers.

This rule must be observed without exception, there have been accidents in the past where students have closed the entrance door themselves when leaving the minibus and have been dragged by the vehicle when clothing was caught in the door.

There was a similar accident of this type in Lancashire some while ago and by adopting this policy, without exception, we should be able to ensure there will never be a reoccurrence. Where a driver fails to follow this vitally important safety procedure, formal disciplinary action will be taken against contractor and employee without exception.

ALLEGATIONS AGAINST DRIVERS OPERATING SCHOOL CONTRACTS

Good Behaviour ~ "Take it on board"

Please ensure that your drivers are aware of the following points. It is a requirement of this policy that a copy of this page is distributed to all drivers engaged on LCC contracts irrespective of whether they are driving on an escorted or unescorted contract.

From time to time allegations are made by pupils, students, parents, vulnerable adults, carers and school staff regarding the conduct of drivers.

Once an allegation has been made, LCC has a duty of care to investigate the claims fully. Depending on the nature of the allegation the driver may be suspended as a neutral act from LCC contracts whilst the complaint is investigated.

Following the guidelines below will minimise any risk of allegations being made against you or other drivers.

Protect yourself and your drivers

- Maintain a polite and professional relationship; never become friends with the pupils, students or vulnerable adults. You can be friendly but not their friend.
- Never give gifts. This includes sweets and chocolates or taking your passengers for treats to places like McDonald's etc.
- Respect personal space, e.g. when putting on seat belts.
- Tell the passenger what you are doing if you are physically helping him/her.
- Report incidents of physical intervention.
- Never touch a child, young person or vulnerable adult unless in a safety critical situation.
- Never refuse a child or young person you have been contracted to carry transport unless you have been directly instructed to do so by Lancashire County Council.
- Do not give children, young people or vulnerable adults any personal details or take any personal details from them e.g. mobile phone numbers or addresses.
- Do not communicate with children, young people or vulnerable adults via social media sites such as Facebook or Twitter etc.
- Do not meet with any of the children, young people or vulnerable Adults outside your working environment.
- Do not swear or use inappropriate language.
- Do not make humiliating comments.
- Do not photograph or video pupils, students or vulnerable adults (*In vehicle CCTV is allowed providing the current legislation is adhered to.*)
- Do not show pupils, students or vulnerable adults pictures or videos.
- As a final check before leaving the vehicle at the conclusion of the route, the driver must ensure that no passengers, any of their equipment, or possessions are present on the vehicle.

**This page must be shared with all drivers on
Lancashire County Council contracts**

CONTACT DETAILS

To advise the emergency use of a non-DBS Cleared driver, please contact:

Rossendale, Burnley, Pendle
Ribbles Valley & Hyndburn:

01282 831 858
or email: itseast@lancashire.gov.uk

Chorley & West Lancs:

01695 587 420
or email: itschorleywestlancs@lancashire.gov.uk

Preston & South Ribble:

01772 705 055
or email: itsprestonsouthribble@lancashire.gov.uk

Fylde & Wyre:

01772 685 504
or email: itsfyldewyre@lancashire.gov.uk

Lancaster & Morecambe:

01524 425 902
or email: itslancastermorecambe@lancashire.gov.uk

To advise the Authority's DBS Administration Team of a DBS cleared driver leaving or joining your company please contact either;

Lee Dalton on	01772 534 490
Peter Dennett on	01772 534 572
or email	busandtaxiidbadge@lancashire.gov.uk

General DBS Queries and Information

If you have any queries regarding the contract operation in general and the requirement for DBS cleared drivers in particular, please do not hesitate to contact Brian Derbyshire on 01772 538 446 (mobile 07554 111 206) or email brian.derbyshire@lancashire.gov.uk

Similarly, if you have queries regarding the administration of the County Council's DBS application procedures, lost DBS Identification badges, etc. please contact Lee Dalton, Peter Dennett on the numbers above..