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## School transport guidance note

### Introduction

The Local Government Association (LGA) and the Institute of Licensing (IoL) have been contacted by some of their members, who have expressed some concerns about home to school transport contracts and safeguarding risks. This short guidance note is not intended to provide a detailed guide to safeguarding and school transport. It aims to provide a brief overview of the role of responsible councils with regards to home to school contracts and licensing authorities with regards to safeguarding in taxi/ private hire vehicle (PHV) licensing and suggests some recommended actions.

### Role of education authorities

Home to school transport contracts are arranged by councils responsible for education. This will be a county council or a unitary authority. Most education authorities will have a policy on home to school contracts which will detail their requirements of contractors, drivers, and vehicles. All education authorities arranging home to school transport will require contracts to be fulfilled by taxi/PHV/PSV licensed drivers in appropriate vehicles. Any safeguarding concerns will be acted upon by the education authority's local safeguarding partnership.

Further information can be seen in the [Department for Education's statutory guidance](#).

### Role of licensing authorities

Taxi and PHV licensing in England and Wales is undertaken by licensing authorities (district and unitary councils), which have the responsibility for ensuring the public travel in safe, well maintained vehicles driven by competent drivers, as well as providing a fair and reasonable service for the taxi and PHV trade. In London, taxi and PHV licensing is the responsibility of Transport for London. One of the key differences between a taxi and a PHV is that a PHV, unlike a taxi, cannot ply for hire, which means that all journeys must be pre-booked in advance through a licensed operator.

In July 2020, the [Department for Transport issued statutory standards](#) for taxi and private hire vehicles and drivers which are fundamentally about safeguarding. Licensing authorities must have regard to these standards. Crucially, the standards reinforce the law by making it clear that a licensing authority must not grant a taxi or PHV driver's licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence. To support considerations of whether a driver is 'fit and proper' the statutory standards suggest posing the following question:

*Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. You should not give them the benefit of the doubt.*

If a licensing authority does not think a person is fit and proper, they are entitled to suspend or revoke a taxi or PHV driver's licence.

The statutory standards also make a clear recommendation that licensing authorities should publish a single licensing statement or policy for taxi and PHV licensing that brings together all their procedures in one place.

This could include policies on convictions, determining the ‘fit and proper’ person test, licence conditions and vehicle standards.

There is also another type of driver’s licence – a Public Service Vehicle (PSV) licence, which are issued by Traffic Commissioners and enable people to drive vehicles such as buses or minibuses. It is important to note that drivers of PSVs are not subject to a criminal record check, unlike drivers of taxis/PHVs who must have an enhanced criminal record check and subscribe to the DBS update service (this service, which costs an applicant £13 a year, ensures DBS certificates are kept up to date). Many councils are concerned that drivers who are refused a taxi or PHV licence, or whose licence has been revoked by councils, are able to obtain a PSV licence and continue operating in the same area. This can have serious community safety implications, particularly where drivers come into contact with vulnerable adults or children, and the LGA and IoL are lobbying to close this loophole.

Further information can be seen in the [LGA’s Councillor Handbook: Taxi and PHV Licensing](#).

### Concerns raised by LGA/ IoL members

The LGA and IoL are aware of concerns about how much communication there is between education transport authorities and licensing authorities about home to school contracts. There have been instances where an education transport authority has revoked a home to school contract due to safeguarding concerns but not communicated this with the licensing authority, who may also licence the driver. The same could apply the other way round.

Additionally, concerns have been raised about education authorities’ use of PSV drivers, which means children could be being transported by a driver without an enhanced DBS check.

### Recommended actions

The LGA and IoL would encourage education transport authorities and licensing authorities to take the following actions:

- **Set up a meeting between the licensing authority, education transport authority and PHV operator(s):** this will be a good opportunity to discuss licensing policies and home to school transport arrangements, exchange ideas and establish how best to work together. Some education transport authorities will have multiple licensing authorities within their area; where this is the case, we would suggest a joint meeting.
- **Check each other’s licensing policies:** does the licensing authority know what their education authority’s school transport arrangements are? Education transport authorities should ensure their transport contract arrangements are clear and shared with licensing authorities. If they are not, we recommend that the licensing authority contact their local education transport authority and request to see it. Similarly, does the education transport authority know what the taxi/PHV licensing policies of their licensing authority are? Are they satisfied with the fit and proper person test? It is important that each authority is aware of the other’s policies.

- **Establish a data sharing protocol between the licensing authority, education transport authority and operator:** this should be included in a home to school transport contract and outline the type of concerns that would prompt a disclosure and when this information should be shared. If there is a safeguarding concern, this should be reported to the licensing authority as they may need to revoke a licence. If a licensing authority knows a driver has a school contract, then the safeguarding concerns should be reported to the education transport authority immediately. If the issues are contractual, such as poor time keeping, it is not necessary to report this to a licensing authority. Some education transport authorities will have multiple licensing authorities within their area. Where this is the case, neighbouring licensing authorities must be involved in such a protocol, as a driver may not be licensed by their local licensing authority and could be licensed by a neighbouring authority.
- **Education transport authorities should undertake a child barred list check** on drivers before issuing a contract. This is essential, as although an Enhanced DBS for a taxi/PHV driver must include a check of both the adult and children barred lists, it is for “other workforce” which is a different category of check from that used for school transport. Licensing authorities should not licence someone on the barred list, however it is good practice for education transport authorities to do this additional check.
- **When awarding a contract, education transport authorities should establish by whom and where a driver is licensed.** Drivers do not have to be licensed by their local licensing authority and can be licensed anywhere in the country. It is essential to establish who has licensed a driver to ensure an education transport authority can report a safeguarding concern to the licensing authority if required.