

Cabinet

15 November 2023

**External Contractor Staff Suitability
Policy**

Key Decision No. REG/06/2023



Report of Corporate Management Team

**Amy Harhoff, Corporate Director of Regeneration, Economy, and
Growth**

**Councillor Elizabeth Scott, Cabinet Portfolio Holder for Economy,
and Partnerships**

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To advise Cabinet of the outcomes of a consultation on the introduction of the policy which provides a clear process for anyone who wants to apply for, or renew, their authorisation to be deployed in the provision of transport for children and vulnerable adults via an external contractor on behalf of the council.
- 2 To seek Cabinet approval to adopt and publish the External Contractor Staff Suitability Policy.

Executive summary

- 3 Providing transport services to children and vulnerable adults for the purpose of home to school and adult social care contracts is a regulated activity – set by Disclosure and Barring Service (DBS).
- 4 The existing practice and decision-making process is as objective as possible and evidence based.
- 5 It is proposed to formalise the current practice, introduce an appeals process and publish the External Contractor Staff Suitability Policy. This will make the decision-making process available to potential applicants.

- 6 A consultation took place between Monday 31 July and Sunday 10 September 2023 and a summary of the responses is provided in the main body of the report.

Recommendations

- 7 Cabinet is recommended to:
 - (a) note the outcomes of the consultation; and
 - (b) approve the adoption and publication of External Contractor Staff Suitability Policy.

Background

- 8 Providing transport services to children and vulnerable adults for the purpose of home to school and adult social care contracts is a regulated activity set by Disclosure and Barring Service.
- 9 This means drivers and passengers assistants, even if they work for external contractors, must be assessed by the council for their suitability to undertake such work. If considered suitable they are authorised to work and issued with a badge. Repeat checks are undertaken every 3 years or sooner if necessary.
- 10 The existing practice and decision-making process is as objective as possible and evidence based. It focuses upon four areas:
 - (a) What is disclosed by the Disclosure and Barring Services about the applicant's criminal history.
 - (b) What is disclosed from the Integrated Passenger Transport Group's (IPTG's) interaction with Safeguarding.
 - (c) What is known about the applicant from their previous history, if any, with the IPTG; and
 - (d) What is found during any additional checks by the IPTG.
- 11 The current process is as follows:
 - (a) Applications for authorisation to work are received by IPTG and reviewed.
 - (b) Those that have clear Enhanced DBS check and no identified concerns are authorised by IPTG and issued with a badge. Repeat checks are undertaken every 3 years or sooner if necessary.
 - (c) Those where the Enhanced DBS check details caution or conviction or the disclose includes 'any other relevant information' will be further assessed by a Local Authority Designed Officer (LADO) and either refused authorisation to work or authorised by IPTG and issued with a badge. Repeat checks are undertaken every 3 years or sooner if necessary.

Proposed Changes: Adoption and Publication of External Contractor Staff Suitability Policy

- 12 It is proposed to formalise the current practice, introduce appeals process and publish the External Contractor Staff Suitability Policy. This

will make the decision-making process available to potential applicants. This will:

- (a) ensure the process is clear and transparent.
- (b) assist those applicants that have cautions and convictions; and
- (c) introduce an appeals process should applicants not be satisfied with the outcome of their application.

13 The policy document is attached at Appendix 2. In summary the document details:

- (a) Criminal history.
- (b) Information from safeguarding.
- (c) Information held / previous history with IPTG; and
- (d) Additional checks by IPTG

14 In addition, it will reduce the number of applications that need to be referred to LADO as those applications where the Enhanced DBS check details caution or conviction or the disclose includes 'any other relevant information' will be assessed against the policy document at Appendix 2 rather than referred to LADO, helping to reduce workloads.

Consultation Process and Responses

15 A consultation took place between Monday 31 July and 10 September 2023. The consultation was implemented in accordance with the Council's Consultation Statement and Consultation Protocol (March 2019), statutory and government guidance, as well as the general requirements of public law.

16 The consultation comprised activities as follows:

- (a) An online survey for respondents to feedback to the proposals.
- (b) A web page outlining the consultation with links to the cabinet report, survey, and other supporting materials.

17 The consultation was also promoted through a range of channels including:

- (a) Targeted awareness messaging to:
 - (i) all individuals with current authorisation to work on IPTG contracts; and

- (ii) all operators on Dynamic Procurement System (DPS) contract.
- (b) Interested representational groups were emailed to alert them to the consultation and promote amongst their networks including Age UK, Durham County Carers Network, Making Changes Together (parents of children with Special Educational Needs and Disabilities (SEND) and AAPs.
- (c) Social media coverage which signposted to the web page and online survey.

18 There were a total of 98* responses to the online questionnaire. Whilst the number of responses appears low compared to other consultation responses it is statistically robust to an error margin of +/- 10% as the target audience is circa 3,000 (approx. number of individuals with authorisation to work on IPTG contracts and all operators on the DPS at the time the consultation commenced).

A profile variety of responders is detailed below:

A current passenger assistant	39.3% (33)
A current driver	33.3% (28)
A current transport provider	10.7% (9)
Other	7.1% (6)
A parent/carer of a child using DCC transport	6.0% (5)
A user of DCC transport	2.4% (2)
A family member of an adult using DCC transport	1.2% (1)

* Some responders did not answer every question.

19 The consultation sought views on the following:

- (a) Do you agree or disagree that the process detailed in the policy is a fair and open process?
 - (i) 91.7% (77) responses strongly agreed or agreed.
 - (ii) 6% (5) responses neither agreed or disagreed.
 - (iii) 2.4% (2) responses strongly disagreed (none disagreed)
- (b) Do you agree or disagree with the sections relating to criminal history?
 - (i) 96.4% (82) responses strongly agreed or agreed.
 - (ii) 2.4% (2) responses neither agreed or disagreed.
 - (iii) 1.2% (1) response disagreed (none strongly disagreed)

- (c) Do you agree or disagree with the sections relating to information from safeguarding?
- (i) 98.8% (84) responses strongly agreed or agreed.
 - (ii) 1.2% (1) response neither agreed or disagreed.
 - (iii) 0% (0) responses disagreed or strongly disagreed.
- (d) Do you agree or disagree with the sections relating to information held/previous history with the IPTG?
- (i) 94% (79) responses strongly agreed or agreed.
 - (ii) 4.8% (4) responses neither agreed or disagreed.
 - (iii) 1.2% (1) response disagreed (none strongly disagreed)
- (e) Do you agree or disagree with the sections relating to additional checks to be carried out by the IPTG?
- (i) 89.3% (75) responses strongly agreed or agreed.
 - (ii) 8.3% (7) responses neither agreed or disagreed.
 - (iii) 2.4% (2) responses disagreed (none strongly disagreed)
- (f) Do you agree or disagree with the sections relating to the appeals process?
- (i) 90.6% (77) responses strongly agreed or agreed.
 - (ii) 8.2% (7) responses neither agreed or disagreed.
 - (iii) 1.2% (1) response disagreed (none strongly disagreed)
- (g) Do you agree or disagree with the sections relating to training requirements?
- (i) 91.4% (75) responses strongly agreed or agreed.
 - (ii) 8.5% (7) responses neither agreed or disagreed.
 - (iii) 0% (0) responses disagreed or strongly disagreed.
- (h) Do you agree or disagree with the sections relating to suspension processes?
- (i) 85.7% (72) responses strongly agreed or agreed.
 - (ii) 11.9% (10) responses neither agreed or disagreed.

- (iii) 2.4% (2) responses disagreed (none strongly disagreed)
- (i) There were 19 free text comments received which expanded on the reasons for the responses. The most prevalent themes were as follows:
 - (i) Three responses provided information not related to the consultation e.g., suggesting the training process should be more comprehensive.
 - (ii) Two responses identified the process as a barrier to employment and / or adds time to the recruitment process before any employee can commence employment.
 - (iii) Two responses suggested that traffic/speeding offences should be a decision for DVLA.
 - (iv) Two responses commented they fully support the proposals.

20 A summary report of the consultation responses is at Appendix 3.

Background papers

- None

Other useful documents

- None

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Appendix 1: Implications

Legal Implications

The council has statutory responsibilities for discharging local authority safeguarding duties.

These safeguarding duties apply to an adult who:

- has needs for care and support (whether or not the local authority is meeting any of those needs)
- is experiencing, or is at risk of, abuse or neglect.
- as a result of those care and support needs, is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.

The statutory safeguarding duties are outlined in sections 42 to 46 of the Care Act 2014.

The legislation relevant to safeguarding and promoting the welfare of children is set out in the Children Act 2004, Education Acts and Children Act 1989.

Finance

None related to this report.

Consultation

Consultation has taken place as set out in paragraphs 14 to 19 report.

Equality and Diversity / Public Sector Equality Duty

An Equalities Impacting Assessment screening has been undertaken. This identified no negative impacts on groups of people with protected characteristics and the potential for positive impact on groups of people with age and disability protected characteristics.

Climate Change

None related to this report.

Human Rights

None related to this report.

Crime and Disorder

None related to this report.

Staffing

None related to this report.

Accommodation

None related to this report.

Risk

None related to this report.

Procurement

None related to this report.



External Contractor Staff Suitability Policy for school and social care transport

This document details the policy for assessing the suitability of an individual to be deployed in the provision of transport for children and vulnerable adults and the ongoing management of their performance to ensure continued suitability. This relates to transport contractors, drivers, and passenger assistants.

Overview

The Integrated Passenger Transport Group's (IPTG) approach to an application to be engaged on home to school and adult social care transport contracts will be based on each individual's suitability for the role. Providing transport services to children and vulnerable adults for the purpose of home to school and adult social care contracts is a regulated activity. Therefore, the Council will take a strict approach when making decisions to ensure that it satisfies its safeguarding duty.

As the process will involve an assessment of risk to passengers in these vulnerable groups, in cases where there is doubt or where the decision is finely balanced, the Council will exercise caution and refuse the application to be engaged on IPTG contracts, rather than giving the individual the "benefit of the doubt" and granting the application. The overarching responsibility of the Council is to protect vulnerable members of society; it is not to provide employment and does not present a guarantee of employment, or continued employment, by an operator for provision of the services.

With that in mind, in order to ensure the decision-making process is as objective as possible and evidence based, it will focus upon four areas:

- A. What is disclosed about the applicant's criminal history
- B. What is disclosed from the IPTG's interaction with Safeguarding
- C. What is known about the applicant from their previous history, if any, with the IPTG
- D. What is found during additional checks by the IPTG.

It will also take into account additional / supporting information provided by the applicant, in specified circumstances set out below.

All requests for authorisation must be submitted online to IPTMonitoring@durham.gov.uk.

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The Decision-Making Process

- A. Criminal History
- B. Safeguarding Information from Local Authority Designated Officer (LADO)
- C. Information held / previous history with the IPTG
- D. Additional checks by the IPTG

Criminal History

All applicants will be required to provide evidence of their identity. The suitability decision will be based mostly on the Disclosure and Barring Service (DBS) Enhanced Disclosure checked against child and adult workforce, although in some cases it will also include overseas criminal history checks if the applicant has lived outside the UK for a period of longer than 3 months since the age of 16. Therefore, it is essential that every applicant agrees and accepts the accuracy of the information disclosed on his or her DBS Enhanced Disclosure or their overseas criminal history check (if applicable). If they do not agree with the document, they will have to resolve this with the DBS or the local Police Authority for amendment / correction. No application will proceed, and no decision will be made, on an application that is supported by a DBS Enhanced Disclosure or overseas criminal history check that is in dispute.

It is important to highlight that the applicant must register with the DBS update service, and consent to the Council checking the status of their DBS record, within 30 days of the date the Disclosure is issued. Failure to register with the DBS update service within 30 days or failure to maintain registration with the DBS update service will mean that the applicant will not be able to renew their IPTG Authorised ID and they will be treated as a new applicant.

Whilst an historic criminal conviction in itself may not automatically result in refusal, and a current conviction for a serious crime need not bar an applicant permanently from becoming authorised, an applicant would be expected to have remained free from conviction for at least the periods in these conditions before an application is likely to be successful. If there is any doubt about the suitability of an individual to be authorised, the Council will be mindful of the need to protect our passengers and caution will be exercised. While it is possible that an applicant may have a number of convictions that, individually, do not prevent approval from being granted, the overall offending history will be considered when assessing an applicant's suitability. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.

Some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of our passengers.

When an applicant has a caution or conviction on their documents it will be considered in relation to the above guidelines.

Any Enhanced Disclosure which includes 'any other relevant information,' declared on the Enhanced Disclosure at the discretion of the local Police Authority, will also be considered by the IPTG before a decision is made. Although there may have been no clear decision made by the police or courts on this incident, the fact that this information has been included demands that this information be seriously

considered. The decision will be made by two IPTG authorised officers. If the applicant does not feel that this information is accurate or true, then they must dispute this with the DBS and/or the Local Police Authority. The IPTG will not make a decision on an Enhanced Disclosure that the applicant states are not accurate.

Assessment of DBS Disclosure and Previous Convictions

Consideration of the DBS Enhanced Disclosure will be based upon:

- the offence(s) disclosed.
- the disposal / sentence issued for that offence.
- the time that has passed since that offence.
- if multiple offences, any patterns in the offending behaviour.
- any additional information provided at the discretion of the Chief Constable of the Police.

As the position involves unsupervised contact with children and / or vulnerable adults, the role falls within one of the “exceptions” to the provisions of the Rehabilitation of Offenders Act 1974 regarding ‘spent’ convictions. Because of the extreme vulnerability of the passengers transported, spent criminal convictions and all other relevant matters will still be considered, including items that have been “filtered.”

A caution (or reprimand or warning) will be considered as if it were a conviction, as cautions are an admission of guilt, and that the offence did take place. However, the disposal, or sentence, which is issued upon a conviction, will also be considered, and given appropriate weight in the overall decision, and as this is not applicable to a caution, they will carry less weight overall than a conviction with any notable disposal / sentence.

A criminal offence may not permanently disbar the individual from applying for a Badge. Each case will be considered on its merits, and the applicant may present additional / supporting information for consideration. Any additional information should be provided at the time of application in order to aid a decision to be made on the suitability of the applicant. The decision of the IPTG can be appealed against (see further below).

Standards enforced by the County Council for Private Hire and Hackney Carriage Licensing have been used as guidelines but have been modified due to the increased need for caution in the assessment of applicants’ suitability for this type of work. The applicant will be engaged on a regulated activity, generally have unsupervised access to children and vulnerable people, hold a position of responsibility and will need to be suitable to deal with and manage some challenging behaviour and the special needs of some of our passengers.

The following guidelines indicate, in general, the **minimum** period that must have elapsed after the date of the conviction or the date of disposal/end of a custodial sentence (if applicable) until an application will be considered. These are general guidelines and should not be considered as an exhaustive list. Offences older than the guidelines will be considered and may lead to a refusal if the Authorised

Officers believe that the offence itself, the disposal of the offence, or a consistency/pattern in offences, are cause for concern.

Offences involving violence and threatening behaviour.

These offences are highly relevant as some of the passengers can be very challenging and the safety of the passengers is absolutely paramount.

Applicants with serious offences, such as murder, manslaughter or manslaughter/culpable homicide while driving, terrorism, or any offences (including attempted or conspiracy to commit offences) that are similar to these will be refused.

Consideration may only be given if a minimum of 10 years has passed since the completion of any sentence following conviction for the following offences:

- Arson
- Malicious wounding or grievous bodily harm, (section (s).20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- Grievous bodily harm with intent (s.18 Offences Against the Person Act)
- Grievous bodily harm (s.20 Offences Against the Person Act)
- Robbery
- Racially aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- Racially aggravated s.4 Public Order Act 1986 (fear of provocation of violence)
- Racially aggravated s.4A Public Order Act 1986 (intentional harassment, alarm, or distress)
- Racially aggravated s.5 Public Order Act 1986 (harassment, alarm, or distress)
- Racially aggravated s.2 Protection from Harassment Act 1997 (harassment)
- Racially aggravated s.2 Protection from Harassment Act 1997 (putting people in fear of violence)
- Possession of firearm
- Assaulting a police officer
- Any racially aggravated offence
- Any offence relating to domestic abuse.
- Any offences (including attempted or conspiracy to commit offences) similar to those above.

Consideration may only be given if a minimum of 5 years has passed since the completion of any sentence following conviction, or 10 years if the offence involves violence against an identifiable person, for the following offences:

- Riot
- Resisting arrest
- Common assault
- Affray

- Harassment, alarm or distress, intentional harassment, or fear of provocation of violence (Protection from Harassment Act 1997)
- Battery
- s.2 Protection from Harassment Act 1997 offence
- s2A Protection from Harassment Act 1997 offence
- s4 and 4A Protection from Harassment Act 1997 offence
- Section 42A (1) Criminal Justice and Police Act 2001
- Racially and religiously aggravated forms of the PHA offences (see sections 28 and 32 Crime and Disorder Act 1998)
- s.2 Protection from Harassment Act 1997 offence
- s.2 Public Order Act 1986 (violent disorder)
- s.4 Public Order Act 1986 (fear of provocation of violence)
- s.4A Public Order Act 1986 (intentional harassment, alarm, or distress)
- s.5 Public Order Act 1986 (harassment, alarm, or distress)
- Obstruction
- Criminal damage
- Violent disorder
- Any offences (including attempted or conspiracy to commit offences) similar to those above.

Two or more convictions for a violent offence will result in an application being refused unless a persuasive case can be made by the applicant that the offences were not such as to give an escalated risk of violent behaviour.

Weapons offences (not a firearm)

These offences are highly relevant given the position of responsibility that drivers and passenger assistants hold. Applicants with weapons offences will not be considered until a minimum of 10 years have elapsed since the date of conviction or the completion of any sentence following conviction (if applicable). Two or more convictions for a weapons offence will result in an application being refused irrespective of time elapsed.

Sexual and indecency offences

These are highly relevant due to the vulnerability of our passengers. Applicants with sexual and indecency offences will not be considered suitable at any time.

Such offences include: -

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults.
- Trafficking, sexual abuse against children and / or vulnerable adults
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)

- Any sex or indecency offence that was committed in the course of employment as a (passenger carrying vehicle) PCV, taxi or private hire vehicle (PHV) driver.
- Making obscene / indecent telephone calls
- Indecent exposure
- Any offences (including attempted or conspiracy to commit offences) similar to those above.

Applicants who are or have ever been on the Sex Offenders Register (or similar) will not be considered suitable at any time.

Dishonesty

These offences are highly relevant due to the position of trust held by drivers and passenger assistants. Applicants will not be considered until 7 years have elapsed since the date of conviction or the completion of any sentence following conviction (if applicable).

Such offences include: -

- Theft
- Burglary
- Fraud
- Benefit Fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- Handling or receiving stolen goods.
- Forgery
- Conspiracy to defraud.
- False representation
- Obtaining money or property by deception
- Other deception
- Fare overcharging
- Failing to declare convictions etc., subsequent to an application being granted.
- Any offences (including attempted or conspiracy to commit offences) similar to those above.

Two or more convictions for a dishonesty offence will result in an application being refused. Applicants or existing IPTG Authorised Identification badge holders that are found to have intentionally misled the council, or lied as part of the application process, will be rejected, or refused.

Drug offences

These are highly relevant due to their effect on driving and the position of responsibility the individual will be given with our impressionable passengers. These are more serious than alcohol offences as there has been a decision to interact with an illegal substance. Applicants with offences of possession of class A or B drugs will not be considered until 10 years have elapsed since the date of conviction or since the completion of any sentence and / or licence period, whichever is greater. There will then be full consideration of the nature of the offence and quantity/type of drugs involved.

Applicants will not be considered if there is an offence related to the supply of drugs.

If there is evidence of previous persistent drug use, misuse or dependency, a specialist medical examination (in accordance with DVLA (Driver Vehicle Licensing Agency) Group 2 medical standards) and a satisfactory medical report may be required before an Authorised Identity Badge is granted. If the applicant had been an addict, they would be required to show evidence of 10 years free from drug taking after detoxification treatment.

Drink related offences.

Without motor vehicle – Applicants with a single offence will not normally be considered until a minimum of one year has elapsed since the date of conviction, but multiple offences would not be considered until a 2-year period has passed since the last date of conviction.

With motor vehicle – Applicants with a single offence will only be considered after 7 years have elapsed since the reinstatement of the licence. Applicants will be required to provide proof of the date of reinstatement.

Where there are multiple offences, applicants will only be considered after 10 years of the latest reinstatement.

Driving offences involving the loss of life

A very serious view is taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

Applicants will not be considered if there are offences relating to: -

- CD40 Causing death through careless driving when unfit through drink.
- CD50 Causing death through careless driving when unfit through drugs.
- CD60 Causing death by careless driving with alcohol level above the limit.
- CD70 Causing death by careless driving then failing to supply a specimen for analysis.
- CD80 Causing death by careless, or inconsiderate driving.
- CD90 Causing death by driving: unlicensed, disqualified, or uninsured drivers.
- DD80 Causing death by dangerous driving.
- Any similar offences, including attempt or conspiracy to commit any of the above

Traffic offences

Minor traffic offences

Where two or more convictions for the following offences within anyone-year period are disclosed, an application will normally be refused / revoked until one year from the date of the most recent conviction has elapsed.

Minor traffic offences include:

- MS10 Leaving a vehicle in a dangerous position.
- MS20 Unlawful pillion riding
- MS30 Play Street offences
- MS60 Offences not covered by other codes.
- MS70 Driving with uncorrected defective eyesight.
- MS80 Refusing to submit to an eyesight test.
- MS90 Failure to give information as to identity of driver etc.
- MW10 Contravention of Special Road Regulations (excluding speed limits)
- PC10 Undefined contravention of pedestrian crossing regulations
- PC20 Contravention of pedestrian crossing regulations with moving vehicle
- PC30 Contravention of pedestrian crossing regulations with stationary vehicle
- SP10 Exceeding goods vehicle speed limits.
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road.
- SP40 Exceeding passenger vehicle speed limit.
- SP50 Exceeding speed limit on a motorway.
- TS10 Failing to comply with traffic light signals Hackney Carriage and Private Hire Licensing Policy 2016 (as amended April 2018)
- TS20 Failing to comply with double white lines.
- TS30 Failing to comply with a Stop sign.
- TS40 Failing to comply with direction of a constable or traffic warden.
- TS50 Failing to comply with traffic sign (excluding Stop sign, traffic lights or double white lines)
- TS60 Failing to comply with school crossing patrol sign.
- TS70 Undefined failure to comply with a traffic direction sign.

In addition:

- Aiding, abetting, counselling, or procuring any of the above offences
- Inciting any of the above offences
- Or similar offences or offences which replace the above offences.

Major traffic offences

Major traffic offences, such as those listed below, will give rise to serious doubts about a driver applicant's suitability to be a driving professional. A driver applicant with one or more of the following offences disclosed on their application will normally be refused / revoked until two years after the expiry date of the most recent conviction.

In cases resulting in a period of disqualification, an application will be refused unless five years have elapsed from the expiry date of the most recent period of disqualification. Driver applicants with multiple offences will not be considered until 8 years have elapsed.

Major traffic offences include:

- AC10 Failing to stop after an accident.
- AC20 Failing to give particulars or to report an accident within 24 hours.
- AC30 Undefined accident offences
- BA10 Driving while disqualified by order of Court.
- BA30 Attempting to drive while disqualified by order of Court.
- CD10 Driving without due care and attention.
- CD20 Driving without reasonable consideration for other road users.
- CD30 Driving without due care and attention or without reasonable consideration for other road users.
- CU10 Using a vehicle with defective brakes.
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering.
- CU50 Causing or likely to cause danger by reason of load or passengers.
- CU80 Using a mobile phone while driving a motor vehicle.
- DD10 Causing serious injury by dangerous driving.
- DD40 Dangerous driving
- DD60 Manslaughter or culpable homicide while driving a vehicle.
- DD90 Furious driving
- DR10 Driving or attempting to drive with alcohol level above limit.
- DR20 Driving or attempting to drive while unfit through drink.
- DR30 Driving or attempting to drive then failing to supply a specimen for analysis.
- DR31 Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity.
- DR40 In charge of a vehicle while alcohol level above limit
- DR50 In charge of a vehicle while unfit through drink.
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
- DR61 Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive.
- DR70 Failing to provide specimen for breath test.
- DR80 Driving or attempting to drive while unfit through drugs.
- DR90 In charge of a vehicle when unfit through drugs.
- IN10 Using a vehicle uninsured against third party risks.
- LC20 Driving otherwise than in accordance with a licence.
- LC30 Driving after making a false declaration about fitness when applying for a licence.

- LC40 Driving a vehicle having failed to notify a disability.
- LC50 Driving after a licence has been revoked or refused on medical grounds.
- MS50 Motor racing on the highway
- TT99 To signify disqualification under totting-up procedure. If the total of penalty points reached 12 or more within 3 years, the driver is liable to be disqualified.
- UT50 Aggravated taking of a vehicle.

In addition:

- Aiding, abetting, counselling, or procuring any of the above offences
- Causing or permitting any of the above offences
- Inciting any of the above offences
- Or similar offences or offences which replace the above offences.

Traffic Offences will not normally be applied against passenger assistant applicants, but they may be considered if there are multiple offences that bring in to question the responsibility of the individual.

In cases where the courts have imposed a disqualification from driving, the periods stated above will normally commence from the date of the restoration of the licence.

In this policy, the term “disqualification” refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

Multiple Offences

In cases of multiple offences of the same character/group or multiple offences of a mixed character/group, any of the minimum periods before an application will be considered may be increased at the Council’s discretion. In every case, the minimum period will be taken as the time elapsed since the expiry date of the most recent offence.

People banned from working with children or vulnerable adults.

A serious view is taken on any applicant that has been banned from working with children or vulnerable adults, and any applicant that has been banned will not be considered.

Outstanding Charges or Summonses

If the individual is the subject of an outstanding charge or summons this must be disclosed to the IPTG at the point of application. Their application might continue to be processed but the application will need to be reviewed at the conclusion of proceedings. If the outstanding charge or summons involves a serious offence, then in the interests of our passengers’ safety the application may either be put on hold until proceedings are concluded, or it may be rejected.

Other Relevant Factors

The Council may take into account any other matter or matters that may affect whether an applicant is suitable, such factors include but are not limited to:

- a) Convictions/Cautions for any other offence not listed above.
- b) Any diversion scheme offered as an alternative to conviction (i.e., “checkpoint” or restorative approach)
- c) Mental Health Act Orders
- d) Inclusion on any register maintained for the purposes of safeguarding the public.
- e) Police intelligence/information
- f) Drug/Alcohol use and Detoxification
- g) Other relevant information disclosed.
- h) Any complaints or the accumulation of complaints regarding a licence holder’s conduct
- i) Surrender of a licence prior to an appearance before the Licensing Committee
- j) Matters contrary to the requirements of this policy.

Failure to disclose all arrest/bail/convictions, fixed penalty notices, cautions, (subject to the Exceptions Order) and/or ongoing investigations and/or pending prosecutions may affect the grant of approval or may lead to the revocation of approval.

Non-Conviction Information

The Council will take into account intelligence which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take following the receipt of information, the credibility of both the witness / complainant and the licence holder will be taken into account. If an applicant has been arrested or charged, but not convicted, for a serious offence, which suggests they could be a danger to our passengers, consideration may be given to refuse the application or to revoke an existing IPTG Authorised ID badge. In assessing the action to take our passengers safety will be of paramount concern.

Applicants with Periods of Residency outside the UK

If an applicant has lived outside the UK for a period of longer than 3 months since the age of 16, the applicant will need to provide a certificate of good conduct (or equivalent criminal record check), from that country (or countries) at the application appointment.

Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU (European Union) nationals a disclosure that is similar to the UK DBS will be required, for those countries for which similar checks are not available, the council will require a certificate of good conduct / police character certificate authenticated by the relevant embassy.

Safeguarding Information from Local Authority Designated Officer

Dependent upon the information that is contained on a DBS disclosure, the IPTG may also make its own checks with Safeguarding to ensure that there is no adverse information relevant to the applicant's suitability for the role. This may include a check of the Proceeds of Crime Act 2002 (POCA) and Protection of Vulnerable Adults (POVA) list and may also require checks to be made with the Police, Social Services and HMPPS.

Information Held / Previous History with the IPTG

The IPTG officers will also consider any information or previous history held about the applicant by the IPTG. This could include records of any performance issues, previous breach of the code of conduct for drivers and passenger assistants, complaints and any previous sanctions taken by the IPTG. Usually, isolated performance issues that were satisfactorily resolved will not prevent the application being considered, but multiple incidents or issues, or any patterns of undesirable behaviour, will be regarded more seriously.

The IPTG officers will document their concerns and give their reasons why they came to this conclusion.

Additional Checks by the IPTG

The IPTG officers will also make additional checks on the applicant's suitability to undertake the role. Drivers will also be subject to a driving licence check and will need to supply confirmation of their professional licensing arrangements (Hackney Carriage / Private Hire / PCV) in order to ensure that they are appropriate to work. All these additional checks must be suitably completed before the IPTG will consider issuing a IPTG Authorised Identification Badge.

Notification of the IPTG Decision

If the applicant is successful, they will be notified in writing and their badge will usually be issued within 10 working days to the individual applicant, unless otherwise arranged with the applicant.

If the applicant is unsuccessful and the decision is taken to refuse a badge the applicant will be informed in writing and given the reason(s) why the authorised IPTG officers felt, they were not suitable. The decision letter will allow the applicant to make an informed decision as to whether they wish to appeal the decision.

Appealing the Decision

A. Stage 1

Rejected applicants who wish to appeal the decision must do so in writing, including reasons for the appeal and any mitigating circumstances that the applicant believes should be considered, within 28 days of the date of the decision letter. The appeal should be sent to IPTMonitoring@durham.gov.uk. Two IPTG authorised officers will review all the issues relating to the decision as well as reasons given by the applicant for requesting that the decision be reversed. The officer's involved will make the decision as to whether the appeal should be upheld or not.

Stage 2

If the applicant wishes to appeal the decision made in stage 1 of the appeal process, then they must do so in writing within 28 days of the notification of the outcome of their stage 1 appeal including any additional information that they wish to be considered. They should send this through to IPTMonitoring@durham.gov.uk. The appeal will be directed to an appeal panel consisting of the IPTG Manager, and an officer from Adult Services or Children's Services. Their decision will be final and binding. After this final appeal hearing, the applicant will be notified of the decision.

The Stage 2 Appeal Process

The stage 2 appeal will include a formal interview / discussion with the applicant about the basis of the original decision taken by IPTG officers – any incidents stated on the DBS enhanced disclosure; any safeguarding concerns unless that disclosure would put other individuals at risk of harm; IPTG information; or other relevant information. Applicants will also be allowed to submit in writing, in advance, any relevant information that they feel may give the appeal panel a better judgment of their character.

The Authorised officer(s) of the IPTG, who made the original decision, will also attend so that they can give their professional opinion and explain to the appeal panel, the basis for the original decision to refuse the application, and, where applicable, their opinion on the impact of any new information provided by the applicant.

When you have been through the appeals process and the appeal panel has made their decision, you will have reached the end of the process.

Applications to Renew an IPTG Authorised Identification Badge

Badges are issued for a period of three years. The applicant's suitability will be looked at afresh at each application for a badge and consideration of the 'renewal application' will also follow the procedure set out above. The previous approval of an applicant for a badge will not necessarily result in their application at renewal being successful, as the factors that the Council must take into account may have altered since the last application as a result of changes in law, council policy,

information regarding the applicant or intervening events which may have brought the applicant's suitability into question.

The IPTG will aim to send out reminders to reapply when the badge is expiring. However, it is the individual's responsibility to ensure that they have allowed enough time for their renewal to be processed – the IPTG recommend at least two months. If the individual does not have a current valid badge, they must not work on IPTG contracts, no exceptions will be made for individuals in the process of reapplying.

In the event that a renewal application is unsuccessful, the same rights of appeal set out above will apply to that decision.

On-Going Management of Suitability

In general, an individual's suitability to continue to hold a IPTG Authorised Identification Badge is managed by the Contracts Management Team.

If there are significant safeguarding concerns, an IPTG Authorised Identification Badge may be revoked. The overarching responsibility of the Council is to protect vulnerable members of society.

IPTG must be notified if a driver or Passenger Assistant has been arrested/bailed/charged with/convicted of, or otherwise investigated, in connection with any criminal or motoring offence. This includes accepting a fixed penalty notice or caution, or receiving a Criminal Behaviour Order (CBO), attendance at any speed awareness course or injury sustained or illness that may alter their medical status in line with DVLA Group II standards or affect their driving ability or details of any motoring fixed penalty endorsements received.

Training Requirements

Prior to the issue of any new IPTG Authorised ID the applicant will be required to complete DCC's Safeguarding Training course for workers undertaking school and social care contracts.

Before undertaking the duties of a Contract all Drivers and Passenger Assistants may also require further training appropriate to the Contract which may include, but not be limited to, Wheelchair Accessible Vehicle training and Passenger Assistant training. A charge may be made to the Contractor for such training courses.

All Drivers and Passenger Assistants must undertake periodic refresher training as determined by the Council, which shall normally be at 3-yearly intervals. A charge may be made to the Contractor for such training courses.

The Council, at its discretion, may require any Driver or Passenger Assistant to undertake further training where necessary and appropriate.

Suspension / Revocation of an IPTG Authorised Identification Badge

The issue of an IPTG Authorised Identification Badge does not preclude the Council from reviewing the holder's suitability to hold an IPTG Authorised Identification Badge at any time during its currency, at its sole discretion. An individual's suitability to hold an IPTG Authorised Identification Badge may be reassessed at any time and in the event of an incident occurring that requires further investigation, the individual's IPTG Authorised Identification Badge may be suspended while the matter is investigated, and all the facts are established and assessed. There are certain allegations which mean that the IPTG cannot divulge any detail of the allegation against an individual whilst their IPTG Authorised Identification Badge remains suspended pending investigation.

The outcome of an investigation may result in the decision to revoke an individual's IPTG Authorised Identification Badge. In this event, the individual may request an appeal as per the process detailed earlier in this document.

If an IPTG Authorised ID Badge is revoked the individual will be notified of a date that they may be eligible to apply again, if appropriate. Any previous incidents that required further investigation will be considered by the IPTG when examining an application to renew an IPTG Authorised Identification Badge and may result in refusal.

A. Liabilities: The IPTG Authorised Identification Badge Scheme

In circumstances where the council must suspend an IPTG Authorised Identification Badge to investigate complaints / allegations, the Council will not compensate that person for any alleged loss of income, or any other costs howsoever arising, for the period of suspension. This will be the case even if the allegations prove to be unfounded. This will also apply for any period in circumstances where the Council decides to withdraw the IPTG Authorised Identification Badge altogether. Equally, the Council will not compensate for any period that an application, or an appeal is being considered. The Council's duty of care towards vulnerable groups is paramount and must always be the guiding principle for any of its decisions.

Appendix 3: External Contractor Staff Suitability Policy

Workforce Suitability

This report was generated on 13/09/23. Overall 98 respondents completed this questionnaire. The report has been filtered to show the responses for 'All Respondents'.

The following charts are restricted to the top 12 codes.

Do you agree or disagree that the process detailed in the policy is a fair and open process?

Agree (41)	48.8%
Strongly agree (36)	42.9%
Neither agree nor disagree (5)	6.0%
Strongly disagree (2)	2.4%
Disagree (-)	-

Do you agree or disagree with the sections relating to criminal history?

Strongly agree (54)	63.5%
Agree (28)	32.9%
Neither agree nor disagree (2)	2.4%
Disagree (1)	1.2%
Strongly disagree (-)	-

Do you agree or disagree with the sections relating to information from safeguarding?

Strongly agree (51)	60.0%
Agree (33)	38.8%
Neither agree nor disagree (1)	1.2%
Disagree (-)	-
Strongly disagree (-)	-

Do you agree or disagree with the sections relating to information held/previous history with the IPTG?

Strongly agree (40)	47.6%
Agree (39)	46.4%
Neither agree nor disagree (4)	4.8%
Disagree (1)	1.2%
Strongly disagree (-)	-

Workforce Suitability

Do you agree or disagree with the sections relating to additional checks to be carried out by the IPTG?

Strongly agree (40)	47.6%
Agree (35)	41.7%
Neither agree nor disagree (7)	8.3%
Disagree (2)	2.4%
Strongly disagree (-)	-

Do you agree or disagree with the sections relating to the appeals process?

Agree (42)	49.4%
Strongly agree (35)	41.2%
Neither agree nor disagree (7)	8.2%
Strongly disagree (1)	1.2%
Disagree (-)	-

Do you agree or disagree with the sections relating to training requirements?

Strongly agree (38)	46.3%
Agree (37)	45.1%
Neither agree nor disagree (7)	8.5%
Disagree (-)	-
Strongly disagree (-)	-

Do you agree or disagree with the sections relating to suspension processes?

Agree (40)	47.6%
Strongly agree (32)	38.1%
Neither agree nor disagree (10)	11.9%
Disagree (2)	2.4%
Strongly disagree (-)	-

Are you responding as:

A current passenger assistant (33)	39.3%	A parent/carer of a child using DCC transport (5)	6.0%
A current driver (28)	33.3%	A user of DCC transport (2)	2.4%
A current transport provider (9)	10.7%	A family member of an adult using DCC transport (1)	1.2%
Other (6)	7.1%	An organisation or group (please tell us which) (-)	-

Workforce Suitability

Are you:

Female (5)	83.3%
Male (1)	16.7%
Prefer to self-describe (-)	-

What is your age?

35-44 (3)	50.0%	25-34 (-)	-
55-64 (2)	33.3%	45-54 (-)	-
Under 18 (1)	16.7%	65-74 (-)	-
18-24 (-)	-	75+ (-)	-

Do you consider yourself to be a disabled person?

(This may include any long-standing illness, disability or infirmity which has a substantial effect on your day-to-day life. Long standing means it has lasted, or is likely to last, for at least a year).

No (5)	83.3%
Yes (1)	16.7%

What is your religion or belief?

None (3)	50.0%	Buddhist (-)	-
Other (2)	33.3%	Muslim (-)	-
Christian (1)	16.7%	Jewish (-)	-
Sikh (-)	-	Hindu (-)	-

What is your ethnicity?

White British (6)	100.0%	Arab or Middle Eastern (-)	-
White Non-British (-)	-	Mixed Race (-)	-
Asian or Asian British (-)	-	Travelling Community (-)	-
Black or Black British (-)	-	Other (-)	-

How would you describe your sexual orientation?

Heterosexual/straight (5)	100.0%
Gay or lesbian (-)	-
Bisexual (-)	-
Other (-)	-