



Department  
for Transport

**Emma Ward CBE**

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27 August 2020

**To: Bus operators operating in England**

**CC: Directors of Transport for Local Transport Authorities in England and  
Directors of Children's Services for Local Authorities in England**

Dear colleagues,

I would like to thank you again for all your efforts and your ongoing commitment to ensuring all children can return to school and college in September. We welcome that the sector is reporting a high level of preparedness for when schools and college return.

As you will be aware, the Department for Transport (DfT) and Department for Education (DfE) officials have been engaging with operator and LA colleagues from across the sector as transport plans for September are finalised. Two matters that have arisen through this engagement are regarding:

- 1) Social Distancing (SD) on school and college transport
- 2) Disclosure and Barring Service (DBS) checks

I am writing to clarify our position on these subjects. This letter should be read in conjunction with the guidance and previous correspondence from both DfE and DfT.

### **Social Distancing on school and college transport**

You will be aware of the guidance published on 11 August<sup>1</sup> on how to manage the capacity and demand for public transport so that children can travel safely to and from school and college. This guidance set out that SD guidelines which apply on public transport will not apply on dedicated school and college transport services.

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<sup>1</sup> <https://www.gov.uk/government/publications/transport-to-school-and-other-places-of-education-autumn-term-2020>

This guidance aims to help those responsible for the provision of dedicated transport to put in place proportionate safeguards to further minimise the risk of transmission of coronavirus (COVID-19). For example, fresh air ventilation, recommending face coverings are worn by those applicable, and facilitating hand cleaning before boarding and after disembarking. We recognise that guidance from Government cannot foresee all operational circumstances and you will need to consider the appropriate balance of measures on dedicated school transport. We recommend bus operators work with LAs and representative groups such as CPT and ALBUM to put in place the measures outlined in this guidance whilst taking into account operational considerations. For example, Transport for London and other areas are planning to designate some bus services as School Services, which will be used by school and college children only.

## **DBS checks**

The safeguarding of children is essential when transporting children to and from school. As employers you are best placed to work with LAs to consider the child protection measures that are necessary for your particular operating environment. I know many of you are working hard to ensure appropriate measures are put in place including temporary measures whilst you wait for full checks to be complete.

We thought it would be helpful to clarify the legislative position around this, though operators should seek their own legal advice in respect of interpreting that legislation, or if they have any particular concerns in this area. This letter should not be treated as a substitute for seeking any such legal advice. The DBS have advice on eligibility for checks that you may find helpful in explaining checks more generally<sup>2</sup> and there is safeguarding legislation<sup>3</sup>

By transporting children to and from school, your drivers may be eligible for:

- An enhanced DBS check when *driving a vehicle which is being used only for the purpose of conveying children* at least once a week by the same driver; or
- An enhanced DBS check with barred lists check when *driving a vehicle which is being used only for the purpose of conveying children* more than three times in a 30-day period.

Enhanced criminal record certificates will disclose spent and unspent convictions and cautions plus any additional information considered relevant to the role being applied for by the local police force. The barred list check is a check of the children barred list (that is a list of those who are barred from undertaking certain types of work with children).

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<sup>2</sup> <https://www.gov.uk/government/collections/dbs-eligibility-guidance>

For example, a bus driver who normally drives a bus open to the public is not eligible for an enhanced DBS (with barred list) check, but a bus driver who is driving a vehicle solely for children (i.e. a “closed service”) is eligible for one of the above checks. You may find this guidance<sup>4</sup> from the DBS of use when considering an application. The relevant legislation only provides eligibility for DBS checks, it does not make them a requirement. However, they form an important part of the effective safeguarding of children and we would expect operators to apply for such checks where the role is eligible, alongside any temporary measures being taken.

You should note that it is a criminal offence for an employer to allow someone to carry out a regulated activity when either knowingly or having reason to believe the individual has been barred from working with children. A regulated activity includes “*driving a vehicle which is being used only for the purpose of conveying children*”.

It is your responsibility as employers to understand and fulfil your safeguarding responsibilities and to consider where it is appropriate to ask someone to apply for the relevant DBS check, if necessary seeking your own legal advice. Representative groups such as CPT and ALBUM can help you in assessing and understanding the safeguarding risks and mitigations to put in place for your operations.

Where employers consider additional DBS checks are necessary, we are working closely with the DBS and Home Office (HO) to ensure that any applications are processed as quickly as possible. Currently, we understand that about 90% of applications are processed within 14 days and many are quicker than this. DBS continue to have adequate capacity to process applications including an increase in applications from the sector.

We recommend applications in advance of September are submitted online as opposed to paper applications to ensure they are processed as quickly as possible.

Before applying for new DBS checks, here are some key facts and prompts to inform your risk assessment:

- if your employee has had a DBS check in the last 3 years, as long as it is for the correct level (enhanced or enhanced with barred list information) and is for the same workforce (children in this case), consider whether you can use the recent check to determine suitability for these roles.
- if your employee has an existing subscription to the Update Service, then assess suitability of the applicant using their original DBS certificate and a check of the Update Service.
- about 94% of all standard and enhanced DBS checks have no information included on them; and
- only 0.02% of enhanced with barred list(s) DBS checks state the person is on a Barred List.

Please note, as a temporary measure, you may consider accepting DBS checks previously issued for volunteer roles working with children and you may wish to ask

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<sup>4</sup> <https://www.gov.uk/guidance/dbs-check-requests-guidance-for-employers> and [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/804668/Child\\_workforce\\_guide\\_v10\\_0\\_28052019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804668/Child_workforce_guide_v10_0_28052019.pdf)

your employees to self-declare whether they have been barred before a barred list check is complete.

Finally, you will wish to consider if there are other measures that you need to adopt that could mitigate any safeguarding risks. Some of these measures could also include similar options to those being developed by Transport for London, for example, designating some bus services as school services using the social distancing relaxation that is compliant with DfE guidance on dedicated transport to school, whilst considering the usual regulatory requirements and reviewing once there is more detail on travel patterns and actual patronage on the public bus network by school children from next week. In developing these measures, you should work with local authorities and schools: for example, you may wish to consider drawing on additional DBS checked personnel such as local volunteers or education staff as part of a broader approach to safeguarding.

Thank you for your ongoing support in preparing for September so that all children and young people can return to schools and colleges in the safest way possible.

Yours faithfully,

A handwritten signature in cursive script that reads "Emma Ward".

**Emma Ward CBE**

**Director General Roads Places and Environment, Department for Transport**