

ANGUS COUNCIL

EDUCATION COMMITTEE – 3 MARCH 2011

VETTING OF SCHOOL CONVEYANCE DRIVERS AND ESCORTS

JOINT REPORT BY DIRECTOR OF INFRASTRUCTURE SERVICES AND DIRECTOR OF
EDUCATION

ABSTRACT

This report describes the new PVG (Protecting Vulnerable Groups) Scheme and recommends revised procedures to be put in place by Angus Council in respect of the vetting of drivers and escorts employed by operators who are contracted by the Council to undertake school conveyance contracts.

1 RECOMMENDATIONS

It is recommended that the Committee:-

- (a) agree to adopt the revised procedures outlined in this report for the vetting of school conveyance drivers and escorts following the introduction of the new PVG (Protecting Vulnerable Groups) Scheme.
- (b) agree that, where any individual seeking employment as a school conveyance contract driver or escort currently holds a taxi licence, they will not be required to undergo a PVG check since these individuals will have already been subject to checks by Angus Council's Civic Licensing Committee prior to the granting of a taxi licence and
- (c) agree to maintain joint arrangements in respect of the vetting of drivers and escorts with Dundee and Perth & Kinross Councils, subject to agreement with these Councils.

2 BACKGROUND

- 2.1 On 28 February 2011, the Scottish Government introduced a new membership scheme Protecting Vulnerable Groups (PVG) to replace and improve the current disclosure arrangements for people who work with vulnerable groups.
- 2.2 The PVG Scheme is Scotland's response to the principal recommendation of the Bichard Inquiry Report which was undertaken following the tragic murders in Soham in 2002. This recommendation called for a registration system (for all those who work with children and vulnerable adults in the UK) that would confirm that there is no known reason why an individual should not work with these client groups.
- 2.3 The Protecting Vulnerable Groups Scheme (PVG Scheme) delivers on the provisions outlined in the Protection of Vulnerable Groups (PVG) (Scotland) Act 2007 and will offer the following improvements to the current system:
 - Effective barring - vetting information will not only be collected but it will be assessed so that individuals considered unsuitable on the basis of vetting information are prevented from joining the workforce;
 - Continuous updating – information about an individual will continue to be collected following the initial disclosure so that any new information, indicating that they may be unsuitable, might be acted upon;
 - Streamlined process – recognising that people may have several jobs/roles and that they may change jobs over time;

- Access to disclosure for personal employers – they can check that the individual they want to employ is not unsuitable.
- 2.4 Disclosure Scotland has issued clear guidance on what is classified work and has determined that transport operatives (PCV drivers and escorts) undertaking education transport duties fall within the necessary definitions and must become PVG Scheme Members.
- 2.5 This report recommends how the new PVG Scheme should be implemented in Angus in respect of school conveyance drivers and escorts.

3 ANGUS COUNCIL'S CURRENT VETTING PROCEDURES FOR SCHOOL CONVEYANCE DRIVERS AND ESCORTS

- 3.1 The Education Sub-Committee of 25 August 1998 (Report 872/98) approved the procedure currently in place for the vetting of school conveyance drivers and escorts. The procedure calls for an Enhanced Disclosure check being obtained by the Council for all school conveyance drivers and escorts except where the applicant currently holds a Taxi Licence and has already been subject to approval by Angus Council's Civic Licensing Committee (this approach ensures that conflicting decisions are not made by the same Authority).
- 3.2 Where an Enhanced Disclosure Scotland check indicated that an individual has had convictions in respect of (a) sexual offences, (b) drugs related offences or (c) assault, then the Director of Education has delegated authority, in consultation with the Head of Law and Administration and Head of Planning and Transport, to refuse to grant a pass permitting the individual to drive or act as an escort on Angus Council's school conveyance contracts. Should the officers decide to refuse an application, the applicant has the right of appeal to the Education Department Special Cases Sub-Committee.
- 3.3 Currently there is a tri-partite agreement in place between Angus Council, Dundee City Council and Perth and Kinross Council whereby the checks and decisions of one Council have been respected by the other two, thereby avoiding multiple checking and potential legal challenges from different outcome decisions.
- 3.4 Currently, Angus Council has 343 Approved Drivers/Escorts eligible to undertake school conveyance duties with six applications pending.

4 THE NEW PVG SCHEME

- 4.1 The new PVG Scheme is managed and delivered by Disclosure Scotland. Under the new scheme an individual undertaking regulated work with children and /or protected adults must apply to become a PVG Scheme Member. It is an offence for someone barred from regulated work to seek to undertake such work. Similarly, it is an offence for an organisation to employ someone who is barred. The only way to ensure that someone is not barred is for the person to become a Scheme Member. Such scheme membership is for life and there will be no need for the individual to join the scheme again when applying for work with a new employer.
- 4.2 The PVG Scheme allows for three different types of Scheme disclosure:
- **Scheme Record** – this is the replacement for the Enhanced Disclosure for work with vulnerable groups and is designed for use by organisations asking an individual to undertake regulated work for them. This includes details of all vetting information (criminal history and information the Police consider relevant to the type of regulated work). It is also indicated if the person is under consideration for listing. A copy is sent to the individual/employer/any regulated relevant body (cost £59, or £41 if a PVG Scheme Record Update has indicated new vetting information is available).

- **PVG Scheme Record Update** – this is a new type of Disclosure for individuals and is designed for use by organisations recruiting individuals who are already scheme members and have had a Scheme Record issued in the past. This specifies the date of disclosure and of the last Scheme Record. It states whether any vetting information was included on the last statement and whether any new information has been added or removed (without indicating the substance of this information). It is also indicated if the person is under consideration for listing. A copy is sent to the individual/employer. The cost is £18 per record.
- **PVG Scheme Membership Statement** – Designed for use by personal employers. The Statement confirms that the individual is a PVG Member and indicates if the person is under consideration for listing. The cost is £59 when first joining PVG, and £18 for subsequent applications.

4.3 For an employer to receive PVG Scheme Records or Record Updates there are two options:

- Subject to meeting relevant organisational standards an organisation can register with Disclosure Scotland;
- For organisations not meeting the relevant organisational standards or not wishing to be registered with Disclosure Scotland they can undertake PVG Scheme disclosures via an Umbrella Organisation of which over 27 had registered as at 13 February 2011.

5 PROPOSED VETTING PROCEDURE TO BE ADOPTED BY ANGUS COUNCIL

5.1 Holders of a current Taxi Licence have already been the subject of approval by Angus Council's Civic Licensing Committee. It is not proposed that any changes are made to the existing arrangements for these individuals.

5.2 At present, for bus drivers and escorts who do not hold a current taxi licence, the Council have sought, from Disclosure Scotland, Enhanced Disclosure checks for all new drivers and escorts involved in school conveyance duties or for any drivers/escorts taking up employment with a new company.

5.3 However, the new PVG Scheme is designed to ensure that an organisation offering regulated work to an individual (i.e. a bus company) should request a Scheme Record or Scheme Record Update either directly from Disclosure Scotland (if they are a registered body) or through an umbrella body if not. It should be noted that it is an offence for an organisation who cannot legitimately ask for a disclosure record to make a disclosure request or attempt to see a record.

5.4 It is therefore recommended that Angus Council amends the contractual conditions for school conveyance contract work to require Operators to:

- Seek PVG Scheme Records for all new employees.
- Seek Scheme Record Updates for new employees who are already a Scheme Member.
- Over the next 3 to 4 years undertake checks on all existing employees.
- Thereafter seek Scheme Record Updates on a regular basis for staff who have previously been subject to PVG Scheme Record checks (every 3 years).
- Provide Angus Council with a list of all drivers / escorts who have been subject to PVG Scheme Records Checks /Updates detailing name, address, date of birth, date of check and certificate number. This list should be maintained on an ongoing basis and be available to the Council at any time.
- Issue all staff with a photo-ID card.

5.5 Angus Council's Conditions of Contract will also be amended to advise operators of the sanctions to be applied should they use staff not PVG checked; in certain cases this may result in termination of contract.

5.6 Angus Council already has within its Conditions of Contract a clause to the effect that:

"In the event that an allegation of serious misconduct or criminal charge is made against any driver or other person employed on the Contract, the Council may request that an alternative driver or other person is substituted pending investigation of the allegation or prosecution of the charge. In the event that the allegation of serious misconduct is upheld or in the event of a conviction for the offence being made, then the Council may request that the driver or other person is substituted on a permanent basis or for any such time as may be determined by the Council. If the Contractor chooses to suspend the driver or other person or terminate his/her employment then the Council will not be liable for any claims, proceedings, payments, damages or costs of any nature, whether arising from a claim for unfair dismissal or otherwise and arising as a result of the Contractor's actions under this Clause. The Contractor shall indemnify the Council against any such claims, proceedings, payments, damages or costs."

This clause will remain in force.

5.7 Currently CPT Scotland (the Confederation of Passenger Transport), the bus operators professional body, and ATCO Scotland (Association of Transport Co-ordinating Officers) which represents local authority transport professionals, are putting together guidance notes for employers setting out the recruitment standards they would expect for individuals involved in the conveyance of scholars. The aim is for consistent standards to be applied across Scotland and guidance will be given on the types of convictions that CPT/Local Authorities deem unsuitable even if an individual is a PVG Member. Once available, this will be issued to operators.

5.8 Angus Council currently operates a tri-partite arrangement with Dundee City Council and Perth & Kinross Council. It is recommended that this continue. Drivers/escorts subject to Civic Licensing checks and granted current taxi licences by these Councils will be permitted to undertake school conveyance duties in Angus without the need for further checks. Operators employing drivers and escorts for school conveyance contract duties will be required to send list of all drivers/escorts who have been subject to PVG Scheme Records Checks / Updates detailing their name, address, date of birth, date of check and certificate number to a nominated lead Council responsible for that company/depot.

6 FINANCIAL IMPLICATIONS

6.1 There are no immediate financial implications arising from this report. The costs of the PVG disclosures will be borne by the bus operators. It should be noted, however, that it is likely that in future these costs will be passed back to the Council through higher contract prices.

7 HUMAN RIGHTS IMPLICATIONS

7.1 There are no human rights implications arising from this report.

8 EQUALITIES IMPLICATIONS

8.1 The issues dealt with in this report have been the subject of consideration from an equalities perspective. An [equalities impact assessment](#) has been undertaken.

9 CONSULTATION

9.1 The Chief Executive, Director of Corporate Services, Head of Finance and Head of Law & Administration have been consulted in the preparation of this report.

10 CONCLUSION

- 10.1 The new PVG Scheme which will bar individuals deemed unsuitable for working with children, in this case as school conveyance drivers/escorts, is welcomed.
- 10.2 The revised vetting procedure is outlined in this report together with recommendations of how it will be implemented for school conveyance drivers and escorts in Angus.

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NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

P&T/GC/LEM