

Department for Transport consultation on the use of section 19 and section 22 permits for road passenger transport in Great Britain (Community Transport)

Report of the Head of Planning, Transportation and Environment

Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

Recommendations:

- (a) that Cabinet welcomes publication of the Department for Transport's consultation on the use of section 19 and section 22 permits for road passenger transport in Great Britain, which asks for comments on proposed changes to law and guidance about who can operate public service vehicles (PSVs) without a PSV licence. The outcome is expected to bring clarification of the definitions affecting community transport permit schemes. However, it raises concerns about the current proposals and the negative impact they will have on Community Transport providers;**
- (b) that Delegated powers are given to the Head of Planning, Transportation and Environment, in consultation with the Cabinet Member for Community, Public Health, Transportation and Environmental Services, to submit a formal response to the consultation to meet the deadline of 4 May.**

1. Summary

Due to a series of concerns raised nationally and in Europe the Department of Transport are undertaking a consultation on the Community Transport (CT) Permit system. This specifically affects CT providers that undertake paid services, even if they are small scale linked to the local community. This will increase the regulatory process, meaning Community Transport providers will need to convert their operations to an Operators' licence and their drivers obtain Passenger Carrying Vehicles (PCV) licences. This will significantly increase costs. Also enhanced regulations are likely to reduce the number of volunteers willing to drive minibuses, especially older drivers whom the sector is most reliant upon.

2. Background/Introduction

The 1985 Transport Act established a permit system to enable community transport groups operating on a not-for-profit basis to carry passengers in a bus or minibus without the requirement for a Public Service Vehicle (PSV) operator's licence.

Many permit holders operate small contract services for local authorities and other bodies – including school transport contracts and registered bus services. But in some cases, they take on bigger contracts and actively compete with the commercial PSV bus and coach sector. A number of local authorities have actively encouraged CT provision to replace subsidised local bus services which have been cut due to budget constraints.

Nationally, a group of commercial bus and coach operators have raised this as a concern with the European Commission, citing unfair competition as the CT permit system offers a lower cost regulatory system compared to the PSV regime.

DfT have acknowledged in correspondence (31 July 2017) to issuers of CT permits, including DCC, that “there has historically been guidance that may have provided an inaccurate indication of the conditions and criteria for operating services under (community) permits” which now needs to be addressed to comply with legal requirements, particularly EU regulations.

A public consultation on the use of CT permits was published on 8 February 2018 (<https://www.gov.uk/government/consultations/section-19-and-22-permits-how-to-apply-eu-regulation-10712009>) and responses are sought from permit-holders and issuers, stakeholders who rely on the services of permit-holders, (local authorities, NHS trusts, charitable organisations etc), holders of PSV licences and respective representative organisations by 4 May 2018.

3. Proposal

Responding to the Consultation

The issues are complex, covering competitively tendered contracts, salaried drivers, derogations within EU regulations and the definition of operating services for ‘non-commercial purposes’

The Consultation questions are designed to obtain comments about the clarification of domestic law and guidance and complying with EU regulations rather than inviting other ideas or options. DfT have made it clear within the consultation documentation that there is no flexibility in the law for the UK Government to introduce further exemptions.

DfT envisage that the majority of CT operators will not be affected by this clarification on EU rules. However, this is unlikely to be the case in Devon where the majority of our CT operators have contracts with the County Council and employ paid drivers for some services. We therefore think the impact on the sector has been underestimated. The Consultation does offer the opportunity to comment, which we wish to take advantage of, on the impact for specific groups in society.

Current Community Transport Provision in Devon

DCC supports a mature CT sector in Devon, having encouraged the development of services including Ring & Ride, voluntary car schemes and community buses over a period exceeding thirty years (*Appendix I: Community Transport Schemes in Devon which operate s19 and s22 permit services*).

DCC enjoys a good working relationship with both our commercial and CT sectors. The CT services complement the local bus network, filling gaps in provision where the market has failed or is unable to provide appropriate services, particularly for vulnerable groups of people including elderly, disabled and rurally isolated passengers.

Anticipated Effects of the Consultation Proposals

Clarification of the definitions affecting CT permit schemes and any exemptions is welcomed as long overdue, but recognition of the following consequences should be taken into account.

The school, social care and local bus transport contracts which CT groups operate, and get paid for, help the groups to afford to run non-viable routes and additional services such as voluntary car schemes. This work and any opportunities for operating contracts will be lost

to the CT groups unless they either convert their operations to an Operators' licence and their drivers obtain Passenger Carrying Vehicles (PCV) licences or they meet one or more of the exemptions to the EU regulations.

CT groups report that they cannot afford the costs associated with an enhanced regulatory process. The Community Transport Association UK estimates the costs for CT groups to become compliant to be at least £11,650 for a one-vehicle, one-driver operation. Additional vehicles and drivers increase these costs significantly. The volunteer trustees of several local CT schemes have reported that they are not willing to continue to operate their services if they are compelled down this route, leaving potential gaps in the network, particularly for services such as Ring & Ride.

If DCC wishes to continue to support essential core CT services, this may have to be through a competitive tender process at potentially additional cost for the authority. Other 'social' or recreational journeys could be lost altogether.

Enhanced regulations are likely to reduce the number of volunteers willing to drive minibuses, especially older drivers whom the sector is most reliant upon. Moreover, there is a local shortage of PCV drivers for commercial bus operators, so funding and retaining volunteers could intensify. There will be increased pressure on CT services, including voluntary car schemes, if minibus-based CT services are reduced.

Locally, the commercial sector co-exists with the CT sector. There have been few instances of tensions between the two. However, in other parts of the UK, large CT organisations with substantial fleets of vehicles and £1m+ annual turnover have understandably caused concern within the commercial sector.

Action to date

DCC has:

- made local CT operators aware of DfT correspondence and sector response
- held meetings with Devon's CT operators (19 October and 8 February) to discuss the issues and the potential effects on their organisations, services and passengers
- arranged to host a DfT workshop in Exeter on 5 April for South West CT operators
- submitted a response to the Commons Select Committee inquiry (November 2017) into the licensing arrangements for CT minibuses. Many local CT operators also submitted responses on behalf of their own organisations
- Provided briefing notes to Devon MPs to raise the matter in Parliament.

4. Financial Considerations

Our support for the CT sector is non-statutory but it fulfils several aims and policy objectives of DCC and may relieve financial pressure on statutory services. DCC support particularly for Ring & Ride services also encourages additional support from District, Town and Parish Councils. A reduction in CT services will be detrimental to community cohesion and has the potential for an increase in public spending to maintain essential transport services for vulnerable people.

5. Environmental Impact Considerations

If people are displaced from minibus services, they may become more dependent on car-based solutions such as taxis or voluntary cars causing an increase in emissions and contributing to traffic congestion.

A reduction in CT services could see more vulnerable people become isolated in their homes, unable to maintain their independence, unable to shop locally or to reach health appointments and creating an impact on other services including social care and health.

6. Equality Considerations

The CT sector focusses many of its services on vulnerable people who do not have access to conventional public transport services. A reduction in these CT services could see a disproportionate increase in social isolation for vulnerable passengers and a reduction in access to essential shopping and other services.

DfT undertook an impact assessment of the proposals which accompanies their consultation papers. There will be a final stage impact assessment once the policy details have been finalised following the completion of the consultation process.

7. Legal Considerations

The Government are introducing changes to secondary legislation to make it compatible with EU law in order to clarify the legal position on CT permits.

Support for CT services is non-statutory. All transport providers commissioned by DCC must meet the appropriate legislative and legal requirements.

8. Risk Management Considerations

This policy/proposal has been assessed and all necessary safeguards or action have been taken/included to safeguard the Council's position.

No risks have been identified.

9. Public Health Impact

Loss of access has a detrimental impact on an individual's mental and physical well-being.

10. Discussion

A link to the DfT Consultation papers is included in this report. It is proposed that a draft response to the consultation will be circulated to Cabinet Members following the DfT workshop in Exeter on 5 April.

11. Options/Alternatives

Our Transport Co-ordination Service will work with all transport providers to achieve the best possible outcome regarding future transport provision.

12. Reason for Recommendation/Conclusion

DCC has an interest in a constructive outcome to the consultation. However, the proposals as they stand are likely to have a negative impact on Community Transport providers. Any reduction in Community Transport services will be detrimental to community cohesion and has the potential for an increase in public spending to maintain essential transport services for vulnerable people.

Dave Black
Head of Planning, Transportation and Environment

Electoral Divisions: All

Cabinet Member for Community, Public Health, Transportation and Environmental Services:
Councillor Roger Croad

*Chief Officer for Communities, Public Health, Environment and Prosperity,
Dr Virginia Pearson*

Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Reference
DfT Consultation on the use of section 19 and section 22 permits for road passenger transport in Great Britain	February 2018	https://www.gov.uk/government/consultations/section-19-and-22-permits-how-to-apply-eu-regulation-10712009

k150318cab Dft Consultation on the use of section 19 and section 22 permits for road passenger transport in Great Britain
(Community Transport)
hk 05 270318

Community Transport Schemes in Devon which operate minibus permit services

The community transport sector in Devon accounts for approximately 239,000 passenger trips a year (2016 figures). There are currently about 75 paid permit drivers and 150 volunteers driving minibuses in Devon (*survey results for CT schemes in Devon Aug. 2017*). Although widespread throughout the County, CT schemes in Devon are small in scale, typically operating one or two minibuses and none operate more than 10 vehicles.

Exeter

Exeter Community Transport Association
Exeter Disability Transport (Freedom Wheels)

East Devon

Axe Valley Ring & Ride
Exmouth & District Community Transport Group
TRIP Community Transport Association (Honiton)

Mid Devon

Exe Valley Market Bus
Tiverton & Crediton Community Transport Association

North Devon

Go North Devon Ltd
Ilfracombe & District Community Transport Association (incl. Torrridge Ring & Ride)

South Hams

Coleridge Community Bus
Ivybridge & District Community Transport Association (incl. West Dart Community Bus)
Totnes Community Bus (Bob the Bus)
Totnes & Dartmouth Ring & Ride (operated by Newton Abbot Community Transport)

Teignbridge

East Teignbridge (Dawlish) Community Transport Association
Newton Abbot Community Transport Association (incl. Totnes/Dartmouth Ring & Ride)

Torrige

Holsworthy Rural Community Transport Association
Torrige Ring & Ride (operated by Ilfracombe Community Transport Association)

West Devon

Okehampton & District Community Transport Group
Tavistock & District Local Transport Partnership (Ring & Ride)
Tavistock Community Bus