



### Transport Select Committee

The Transport Committee calls for written evidence from interested stakeholders—including users of community transport; CTOs; commercial operators and their representative organisations; local authorities; and Traffic Commissioners—addressing one or more of the terms of reference in **bold** below.

This note is a 'long' list of possible things to think about in response to each of the questions that the Committee poses. NB these won't be relevant for all CTs, so if they don't apply to you, just ignore them. This is intended to stimulate ideas as to how you might respond – it is NOT a checklist for you to tick off. There will be other things that are relevant to your own organisation, and it is important that you reflect these in what you send to the Committee. Note the 3,000 word limit.

Details of how to respond can be found at:

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/transport-committee/inquiries/parliament-2017/community-transport-17-19/>

**DEADLINE = Friday 3<sup>rd</sup> November**

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***The effectiveness of the DfT, DVSA and Traffic Commissioners' guidance to, and regulation of, community transport: in particular, the DfT's role in providing clarity to the sector about the implications of EU Regulation EC 1071/2009 and the July 2017 outcome of a relevant DVSA licensing investigation of an individual CTO.***

1. Generally, how much have you relied or do you rely on official guidance from a) DfT, b) DVSA (formerly VOSA) and c) Traffic Commissioners [Assume this also extends to the DfI in Northern Ireland, and its predecessor the DoENI] to help you understand the technical and legal aspects of community transport operation – such as what sort of services you can run under a s19 or s22 Permit [s10B in NI] , what licences your drivers require, whether you can undertake work for your local transport or education authority / health trust or local NHS and if so, how can this work be commissioned.
2. Did you know about the potential implications of EU Regulation 1071/2009 before the DfT letter of 31 July 2017? If so, did you find out about this from information that the DfT or DVSA (previously VOSA) or DfI/DoENI published?

3. How clear did you find the DfT letter of 31 July 2017? Did it answer your questions and concerns? Did it enable you to make appropriate business continuity decisions for your CT? [Was it clear how it applied to Northern Ireland?]
4. Do you feel that the DfT letter of 31 July adequately explained the relevance of the DVSA licensing investigation of an individual CT Operator? Did it adequately explain the status of the investigation?
5. If there has been a lack of clarity in official guidance, what implications has it had for your organisation?
6. Do you feel that the guidance from the above bodies is produced from a standpoint that understands the practicalities that you face as a CT on a day to day basis? Can you give any examples that illustrate why you hold that view?
7. Have you any specific examples where official guidance from one of the above bodies has been either contradictory, confusing or misleading?
8. Are there other source(s) of information and guidance that you find more helpful than the DfT, DVSA and Traffic Commissioners or DfI? If so which and why?

***The effects on commercial operators of the longstanding approach of licensing community transport services via Section 19 and/or 22 permits (Transport Act 1985) [again, assume that this covers s10B Permits in Northern Ireland]***

9. What do you do that commercial operators simply don't do in your area? Why don't they do what you do?
10. What is your relationship (if any) with commercial operators in your area? Do you pass work to them when it is inappropriate for you to do it? Do they understand what you do and why you do it? Have there been any complaints about your activities, either directly to you or to a third party such as the local council or the Traffic Commissioner? If so, has it been possible to resolve these complaints?
11. How much, if any, of your work do you think would be attractive to commercial operators receiving the same remuneration that you do?
12. Do you consider the impact on the commercial sector when deciding whether to undertake a particular area of work?
13. Have you had to alter any practices, or found that your local or other authority has closed off some areas of work, in order to avoid impacting on commercial operators, whether on 'unfair competition', State Aid, or other grounds?

14. If you operate a s22 Community Bus Service (i.e. a registered local bus service for the public) does this compete in any way with local bus services that are commercially provided (i.e. excluding ones that are supported by the local transport authority)? Do your services actually act as feeders to other public transport services?

***The safety, security and service quality implications of licensing community transport services via such permits***

15. Can you confirm that you have a responsible approach to safety e.g.
- a) vehicles: do you base your vehicles' inspection and maintenance regime around daily checks and regular inspections as in <https://www.gov.uk/government/publications/guide-to-maintaining-roadworthiness> If your vehicles are equipped with lifts, do you ensure that you have 6 monthly check of your passenger lift as required under British Standard 6109 Pt 2
  - b) drivers: how do you recruit and assess your drivers' ability to drive a minibus? What driver training do you give your drivers?
  - c) Are all your vehicles equipped with lap and diagonal seatbelts and WTORS for different types of wheelchair? Do you use the wheelchair passport scheme? What else do you do to ensure safety e.g. provision of passenger assistants / escorts and training in how to use passenger lifts, WTORS (Wheelchair Tie-downs & Occupant Restraints), etc.
16. Can you confirm your approach to security – we think this means 'safeguarding of vulnerable passengers':
- a) Are all staff and volunteers who come into contact with vulnerable passengers DBS or PVG (Disclosure Scotland) or AccessNI checked? To what level? E.g. enhanced?
  - b) Do you have any protocols / instructions to staff or volunteers / training that focuses on safeguarding e.g. observing for signs of abuse
  - c) Do you ensure that confidentiality of information about your passengers is understood by staff / volunteers
  - d) Do you have appropriate data protection arrangements in place e.g. a data protection policy / statement in your terms of membership so that passengers understand what personal data you hold about them and what you do with it?
  - e) Do you have appropriate data security systems in place for both physical and electronic data e.g. password protections, locked cabinets
17. Can you confirm your approach to service quality e.g.:

- a) Designing your services to provide for door to door arrangements minimising walk distances for those with walking difficulties / allowing extra time in your schedules so that passengers are not 'hurried'
- b) Additional care or support that you provide to vulnerable passengers e.g. going into their homes to assist them to come out to the vehicle / helping them to the clinic if attending hospital
- c) Particular arrangements to enable people to enjoy their journeys e.g. enabling groups to travel together / targeting people who might otherwise be lonely
- d) Evidence of passenger input / feedback / satisfaction surveys that results in improvements or changes

***The potential effects in the short and longer term on different types of CTOs, and the people who rely on their services, of a move away from permits towards PSV operator and PCV driver certificates and licences***

18. If you were to be required to move to PSV licensing and all D or D1 drivers with DCPCs what would your initial response be:
- a) This is feasible but will be an administrative hassle and cost more
  - b) We will have to do this but not only will it cost more, it will mean that we can't effectively operate some existing services
  - c) We will seek to avoid this by e.g. downsizing our vehicles to maximum 8 seaters
  - d) We will merge with a larger CT that can handle this
  - e) We will explore whether we can transfer our services to a larger organisation that isn't a primary purpose transport operator and that would therefore be exempt
  - f) We will close down
  - g) Some other response
19. Taking your likely response from the above:
- a) What will be the impact on services / service users? What will they notice (e.g. loss of service / fares going up)? How many will be affected? Describe them.
  - b) What will be the impact on your volunteers? Will you lose the ability to recruit volunteers / involve volunteers at all in your operations? How many volunteers will be lost? How many volunteer hours would be lost in a year?

- c) What will be (or has been) the impact on your staff e.g. redundancies.
  - d) What will be the impact on the culture of your organisation? Will it make you feel less like a charitable or community-based service? What effect could this have?
- 20.** Have you calculated / can you calculate the likely cost (one-off and ongoing) to your organisation of compliance? Are there any specific funds available that would mitigate this cost, such as the D1 driver training fund in Scotland?
- 21.** Can you see any safety, security or service quality benefits from a move from Permits to PSV operation?
- 22.** Do you currently do any competitively tendered home to school or adult care contract work for local authorities?
- a) If so, would the change to PSV operation mean that you would plan to expand this work?
  - b) If not, do you have any plans / could you envisage any desire to start doing this sort of competitive contract work following a change to PSV operation?
- 23.** Do you currently deliver a local bus service under a s22 Permit under contract to a local authority? Is this competitively tendered or is it issued to you under so-called 'de minimis' arrangements? Would the change to PSV Operation enable you to expand your local bus network – if so, how and would you want to do this?

***Suggested approaches to the funding, commissioning and licensing of community transport in the short and longer term, to ensure community transport services, particularly for vulnerable and potentially isolated people, can be safely maintained in a sustainable and value-for-money way***

NOTE – opponents of CT are portraying the current issue as just being about legal aspects of regulation, whereas it is clearly about how CTs can and should get funded to undertake the core CT work that falls within their objectives. Mobility Matters considers that the DfT should undertake a review that includes funding as it isn't possible to separate regulation and funding without ignoring the impact that changes in regulations will have on the financial sustainability of individual CTs.

- 24.** Briefly outline the source of funds that enable you to keep your services running, and explain where these have changed significantly in the last few years e.g. reduction in grant aid<sup>1</sup> forcing you to rely more on other forms of income including trading income. What has been the impact of changes to funding on a) your services; b) your organisation / operational arrangements (e.g. forcing you to do non-core work so as to cross-subsidise your core work)?

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<sup>1</sup> Particularly important that you cite the trends in local authority and other support that may have pushed you towards undertaking statutory service contract work.

- 25.** What level of funding would you need to enable you to meet the known demand for your services (excluding any services that you are delivering under contract to enable another organisation to meet their statutory duties e.g. home to school, adult care or non-emergency patient transport)? How does this compare with your current funding? How much of this would need to come from 'public' sources (e.g. government departments, local or transport authorities, NHS) What have been / could be the best ways of funding you that:
- a) Provides you with reasonable security and predictability?
  - b) Relates the funding to outputs or preferably outcomes?
  - c) Provides adequate audit trails for the public purse?
  - d) Ensures that reasonable 'value for money' or 'best value' is obtained?
  - e) Facilitates future service development and investment?
  - f) Is 'sustainable' i.e. allows for relatively stable long-term funding, taking into account public sector financing constraints?
- 26.** Is it useful to have separate funding channels for:
- a) Capital e.g. in England, the DfT Minibus fund; in Scotland the Community Transport Vehicle Fund?
  - b) Core operational revenue?
  - c) Service development?
- Or
- d) Public or parallel public transport services (Community bus, rural DRT, dial-a-bus or dial-a-ride services for individuals who have difficulty using conventional bus services) – funding might be sourced from the authority's public passenger transport budget
  - e) Social welfare or health focused services – funding might be sourced from social work or health budgets
  - f) Community and third sector focused services – funding might come from third sector support / community or economic development budgets
- 27.** In thinking about the two questions above, you should consider different approaches such as (and these are not exclusive):
- o Grant aid – no or few strings attached

- Grant aid but under a Service Level Agreement i.e. a more or less detailed statement of what is expected but with no legal performance enforcement process
- A contract (or contracts) to provide community transport services e.g. dial-a-ride, dial-a-bus, group transport, links to work or training for those not in education or employment, MiDAS / PATS training, passenger assistance, bus buddies, etc. i.e. core CT services connected with minibus operation but excluding services that meet statutory duties such as home to school transport
  - Within the above, is this best commissioned competitively or through a single tender negotiation if, for example, you are really the only local operator suitable to deliver the service mix
  - Within the above, is this best constructed as a fixed amount or should there be some measure of incentivisation through payment by results e.g. a fee per trip within an agreed limit. What is the best balance?
  - Within the above, would there be any advantage in describing this as a franchise (as London buses are commissioned) where the right to operate CT services would be exclusive to the winner of the franchise?
- A contract (or contracts) which combine statutory duty services such as morning and afternoon day centre transport with discretionary services such as a middle of the day dial-a-bus into a package that makes best use of the vehicle & staff resources across a full day. The mix of services would be determined by the commissioner i.e. usually the local authority (might be DfI in Northern Ireland).
- An expectation that CTOs will competitively bid for and be successful in undertaking a contract (or contracts) to deliver statutory duty services such as home to school and will use the profit from this contract work to subsidise their core CT operations.
- CTOs bidding competitively for statutory duty services without pricing to make a profit, but as a means of creating additional resources within the organisation that can be used for other core CT purposes.
- A Social Impact Bond (payment by results) – see [https://en.wikipedia.org/wiki/Social\\_impact\\_bond](https://en.wikipedia.org/wiki/Social_impact_bond) for an explanation of this approach

- An expectation that operating under PSV rules would enable CTOs to undertake other forms of profit-making work, such as airport transfers or running public bus services, that would cross-subsidise their core CT work. This might be undertaken under a separate, non-charitable, trading arm that would gift aid its profits to the parent charity, or it could be under a more general purpose social enterprise using e.g. a Community Interest Company structure.
- Using funding that goes to the service users either directly or managed on their behalf. This would include:
  - Concessionary travel i.e. eligible holders would be able to use their National Concessionary Travel Card on CT services – if so, what discount should this give them and what cost reimbursement rate should CTs receive? (given that most CT fares are set at levels that require subsidy from elsewhere and/or the use of volunteers)
  - Payment from Personal Health or Care Budgets
  - Payment from similar schemes for Department of Work and Pensions or equivalent
- Other transport-related funding such as Bus Service Operators Grant or allocation of a Parking Levy / Congestion charge towards CT (amongst other services that might be supported in this way)
- Some form of payment from the health sector that recognises the significant impact that CT services have on preventing or mitigating ill-health and promoting or supporting better health (thus saving NHS costs) – (assume this goes beyond simply subcontracting to the local ambulance service as that doesn't produce any extra trips)
- Where there is a bus network franchise (i.e. in London or outside London if this were to be introduced) making the provision of CT services part of the franchise commitment (thus stimulating partnerships between CTs and commercial bus operators, or indeed for CTs to bid for franchises in their own right). An alternative outside London could be to make provision of CT services, including Community Buses, part of an enhanced Bus Partnership that included funding for such services.
- Some other funding or payment model – that you will describe
- Some appropriate mix of the above that you will describe

NB if any of the above approaches definitely wouldn't work for you, say so and explain why e.g. they would not be compatible with your charitable objectives

**28.** It has been suggested that 'smarter procurement' or 'smarter commissioning', that would take into account the added social value and service quality provided

by CTs, could be a means of ensuring that well-performing CTs would be 'winners' within a framework of competitive tendering of statutory services such as home to school transport.

- a) Have public authorities in your local area (or e.g. Central Procurement Directorate in NI) managed to incorporate the social benefit assessment contained in the Public Services (Social Value) Act 2012 / Procurement Reform (Scotland) Act 2014 or equivalent in any tendering that affects you in a way that is meaningful for CT operations?
- b) What has your experience been of public authority procurement? Has it taken into account the aspects of service quality that are important to CT users or any other added value that you provide as a CTO? Or is it just focused on lowest cost that meets a basic threshold?
- c) Have any authorities managed to take outcomes (e.g. reduction in loneliness, improvement in service user health) into account in their commissioning of transport services (as contrasted with outputs, such as trip numbers)?
- d) Based on your experience, how likely do you think it is that public authorities would be able to develop the expertise, capacity and positive interest in moving towards smarter procurement or smarter commissioning?

**29.** To what extent can or should environmental considerations be taken into account in the above?

## Reference Information about Costs

**PSV 'O' Licence** £209

<https://www.gov.uk/psv-operator-licences/how-to-apply-for-a-psv-licence>

Once issued, increasing the vehicle limit on the licence £122

*Compares to:*

- *S19 Small Bus (per vehicle)* £11
- *S19 Large Bus (per vehicle)* £20
- *S22 Community Bus Permit (per vehicle)* £55

Financial Standing requirements – easily available funds (e.g. on call reserves) – NB there has been inconsistent treatment by Traffic Commissioners as to whether charitable reserves may be used for this purpose:

- First vehicle £7,850
- Subsequent vehicles (each) £4,350

**Local Bus Service Registration** £60

*Compares to Community Bus service registration* £13

### Vehicles

Tachograph & Calibration (ca. 50% of CT vehicles don't have a tacho – will be needed when they are PSVs) – cost of retrofit £1,300

Calibration £50

PSV Certificate of Initial Fitness (only required for pre-Type Approval (2011) vehicles) £293

Legal lettering – operator identification (not required for s19/s22) £50<sup>2</sup>

Annual Test (up to 22 passengers, normal working hours) £127

Vehicle Excise Duty No change

*Compares to current (13-16 seats)* £59.55

Retests within 14 working days £54

*Compares to Class V retest on same/next working day* Free  
*and Retest within 10 working days (Partial Retest Fee) – Maximum £30*

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<sup>2</sup> Plus VAT

## Drivers

NB – there is a national shortage of D/D1 drivers so the assumption is that additional drivers will need to be trained from scratch. Some of your existing drivers may not pass the medical test.

NB2 – Current PCV driving test failure rates are significant (see DVSA0601) – 41% failed in 2016/17 – this needs to be factored into your costs, partly for retest costs and partly because you will lose the investment in training and application fees if ultimately some drivers turn out to be unlikely to pass.

NB3 – according to Trapeze Group <http://www.trapezegroup.co.uk/article/cost-of-driver-attribution-what-to-do-about-it> almost half of new drivers recruited in the UK leave within the first 12 weeks of their employment. They also estimated commercial recruitment and training costs of £3,500 per driver

Recruitment (advertising, networking, selection / interviewing management time, taking up references, issuing contract) £500<sup>1</sup>

Wages of trainee driver for 10 days @ £8.00/hr + 20% on-costs during training £720

External Training Costs – vary from:

- short courses for experienced drivers (<http://www.totaldriving.net/pcv-psv-training/prices/> ) £450<sup>1</sup>
- courses for car drivers (<https://www.wallaceschool.co.uk/courses/pcv/step-three-driver-training-and-driving-test/-minibus-training> ) £1,017<sup>1</sup>
- Average £734<sup>1</sup>

Larger CTs may be able to reduce this by organising their own trainer and providing their own minibus for the training and for the test (minibus must be at least 5m long and with a maximum authorised mass of at least 4 tonnes)

Medical Test (then every 5 years from 45, and annually from 65) ca £85<sup>1</sup>

Theory Test £26

Hazard Perception Test £11

Case studies Test £23

Driving Test (weekdays) £115

Practical demonstration test £55

NB Allow for retake costs

NB – there are lengthy queues for driving tests, so you may recruit someone but then not be able to get a slot for a driving test – driving schools get round this by advance booking – even though they aren't supposed to)

Digital tachograph card (first application)	£32
Consolidation and general / specific route induction (1 week @ £7.50/hr + 20% on-costs)	£338
MiDAS + additional passenger care training during this week	£150
Driver CPC Costs – 35 hours of training every 5 years (5 days @ £60)	£300
Cost of driver for CPC training every 5 years (35 * £8.00 + 20%)	£336

Note – where existing drivers cannot meet the D/D1 or DCPC requirements (e.g. because of the uncorrected eyesight test), then you may need to make them redundant, with associated costs

## Manager

CPC (Certificate of Professional Competence) required to obtain an 'O' licence: e.g.

- FTA – 8 days intensive – various venues £1,496<sup>1</sup>
- Possible accommodation for above - 8 days @ £75 £600
- Exam (next day) £102
- Cost manager during this time – 9 days \* 7.5hrs @ £13 + 20% £1,053

Note – it is possible to reduce the training costs through distance learning – see e.g. <https://friendberry.co.uk/product-category/cpc-courses-operator/psv-cpc-courses/> However, this doesn't suit everyone, can't be done in a hurry and has a much lower pass rate.

Note also, that having a second person qualified as a CPC holder as back-up would be good practice for larger CTs.

Note that the nominated transport manager, as well as holding a CPC must be of 'good repute' – see [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/579290/stat-doc-1-good-repute-and-fitness.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/579290/stat-doc-1-good-repute-and-fitness.pdf) It is possible that the personal circumstances of existing staff might not render them compliant with the above, in which case you would face the cost of recruiting a new manager and possible redundancy.

## **Operating Base**

A specific requirement for a PSV 'O' licence is that there is off-street parking provided for all your vehicles, and that safe and visible access and egress to your depot is possible. It is possible that a change of use from Permit operation to PSV operation could trigger the interest of the planning authority and this needs checking to ensure that you can remain where you are.

## **Insurance**

In principle this shouldn't change. However, in practice underwriters are likely to perceive greater risk – particularly in the propensity of people to claim from a PSV (i.e. commercial) operation. Suggest either allow for a 50% increase in premium rates or take specific action to hold premiums down by:

- Taking particular efforts to screen out high risk drivers during recruitment. The best way of doing this is to recruit the majority of drivers without an existing D or D1 entitlement, on the basis of attitude and temperament, so the training and testing costs would be correspondingly higher.
- Equipping your minibuses with telematics and CCTV cameras @ £1,400<sup>1</sup> per vehicle

## **Replacing Volunteers**

Need to assess how many volunteers will be lost or will in future not be recruited, as a result of the forced change to PSV Operation, and then calculate the cost of replacing them:

- Drivers @ £8.00/hr + 20% on-costs
- Additional recruitment costs
- Additional management costs relating to increased staff numbers
- Increased rest room, etc. provision

## **Legal Advice**

The Department for Transport recommends that CT groups obtain their own legal advice to ensure compliance with all applicable legal requirements. Moreover, to avoid any complications within the PSV 'O' licence application process, particularly around whether charitable reserves can be used towards financial status of the 'commercial' operation and especially if the DfT guidance turns out to be that a trading subsidiary can be used to separate out charitable and 'non-commercial' (s19 / s10B – operated by the parent charity) from 'commercial' (PSV operated by the subsidiary), then legal representation at any hearings in front of the Commissioner is recommended. Cost - perhaps £2,500 to £5,000

## Company Formation

If the trading subsidiary model turns out to be acceptable to the DfT<sup>3</sup> then it may be appropriate to establish a trading subsidiary. This will imply all the costs of company formation, establishing separate accounting systems, different boards, bank accounts, official documentation, separate auditing, separating the finances and assets, allocating existing staff to the new company, agreeing inter-organisation trading arrangements, new website arrangements, brand, and so on. This would likely create a minimum one-off cost of, say (including management time) £4,000

## Local Circumstances

The above is a checklist to help think about what costs might arise. It is not claimed to be comprehensive – there may well be local considerations or strategies not covered. For example:

- Some CTs are considering closing down – with resulting redundancy and winding up costs
- Some may decide to downsize their vehicles so that at maximum 8 passenger capacity, they can still be used under a s19 Permit provided individual fares are charged (as would be the case with a dial-a-ride), but are below the threshold of EU Regulation 1071/2009. In this case, the cost of replacing vehicles would be a major component as well as what effect that might have on the resulting need for drivers, whether paid or voluntary.

## Loss of Income

The general approach implied in the DfT letter is that if CT groups upgrade to PSV operation then they will continue to be able to deliver the same services as now and will benefit from whatever income they currently receive (albeit set against a higher cost base). However, this is not necessarily the case. The change to PSV could mean that it is impractical to rely on volunteer drivers – in turn this may mean that certain types of work, most commonly perhaps group transport, will no longer be affordable to end user groups and will therefore cease. Another implication is whether the change to 'commercial' PSV Operating status will have an impact on the ability of the CT to attract funds from charitable trusts, given the new business model being imposed on the sector which appears to be to cover all operating costs through trading. These are issues for you to consider by examining your own funding sources and considering how they might be affected by the change.

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<sup>3</sup> NB at this point, this is not at all clear, as the DfT letter states: "Where any of an operator's services are not being carried out "exclusively for non-commercial purposes", then the operator cannot operate any vehicles under a Section 19 or 22 permit, since it falls outside the scope of the derogation." and the relevant EU Regulation 1071/2009 applies to 'undertakings' which in certain circumstances include all linked companies.