

# MobilityMatters



**Mobility Matters** is a campaign group that has been formed to lobby DfT and Government to oppose the proposed changes to s19 and s22 Permit legislation (GB) and s10B (NI). This news update bulletin has been produced by **TAS Partnership Limited** in support of the **Mobility Matters** campaign group.

## Campaign Newsletter No.6 (7 December 2017)

The second **Transport Select Committee** (TSC) oral evidence session was held on 27 Nov and the following made contributions:

- J **Leon Daniels** (Transport for London)
- J **Sue Davey** (ATCO)
- J **Dominic Davidson** (Staffordshire County Council)
- J **Peter Shelley** (Hampshire County Council)
- J **Jesse Norman MP** (Parliamentary Under Secretary of State for Transport)
- J **Stephen Fidler** (DfT)
- J **Peter Hearn** (DVSA)
- J **Kevin Rooney** (Traffic Commissioners for Great Britain)

The minutes of the first oral session on 13 Nov are here:  
<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/transport-committee/community-transport/oral/73798.html>

Video feed of the 27 Nov is here:  
<http://www.parliamentlive.tv/Event/Index/d933ac66-c04d-4415-9e16-7024e7b20f93>

Video feed of the 13 Nov session is still available here:  
<http://www.parliamentlive.tv/Event/Index/a25f535c-d623-4d2e-9ca4-483fc9a95399>

We note that the facility to post comment via the forum is now to remain open throughout the inquiry.

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/transport-committee/community-transport-online-forum/?page=0>

The session included numerous references to the Mobility Matters campaign and its work. An excellent representation for the sector was presented, those giving evidence highlighted value to communities, high standards of safety and quality and clearly put forward the concerns surrounding the potentially devastating impact on individuals and communities if services were to be lost, via the DfT's lack of or confusing guidance, or via action taken by the department before they have the information to inform that action.

We are pleased to note that **Derbyshire County Council** has reacted to DfT's 9 Nov letter to local authorities in a positive manner. They have stated: *"We've welcomed a Government re-think on proposed changes to the level of licence required to operate community transport schemes... We lobbied the Government on behalf of operators, demanding immediate clarification on the proposals. Now, the Department for Transport has responded – saying the exemption can continue to be used for the time being."*

The full Derbyshire CC press release can be found here:  
[http://www.derbyshire.gov.uk/council/news\\_events/news\\_updates/2017/november/news\\_items/pressure\\_pays\\_off\\_as\\_government\\_re-thinks\\_community\\_transport\\_licence\\_change.asp](http://www.derbyshire.gov.uk/council/news_events/news_updates/2017/november/news_items/pressure_pays_off_as_government_re-thinks_community_transport_licence_change.asp)

DfT has now revised its guidance and the **Traffic Commissioner (TC)** has amended the application forms for s19 and s22 Permits. The new forms have the following questions added: **"Are you engaged in any commercial road transport services?"** and **"Are you engaged in road passenger transport exclusively for non-commercial purposes?"** It then goes on to say **"If you have yes to either of the above questions please provide details of how you meet these exemption criteria. You should enclose any relevant evidence with your application."**

That evidence is indeed now required has been confirmed to us by **John Thorp** from **Flittabus** in **Central Bedfordshire** whose recent application to



the TC for renewals of two s22 Permits was met with the following demand: ***“You must demonstrate to the Traffic Commissioner that you meet one of the following criteria: a) The applicant is engaged in road passenger transport exclusively for non-commercial purposes or b) The applicant has a main occupation other than that of road passenger transport operator.”*** Flittabus explained that they were solely operating community bus routes with 30 volunteers and had never tendered for any contract work. The TC still rejected the application, saying: ***“Whilst I appreciate you do not bid for any commercial services, are you aware if there has ever been any tendering process for the routes you provide. You may need to speak to the councils concerned and provide evidence from them.”*** Luckily Flittabus was able to get **Central Bedfordshire Council** to confirm that none of the routes had ever been tendered, and the Permits were renewed. Another CT (who remain anonymous) was not so lucky. They applied for additional Permits but were refused on the grounds that they were not ‘exclusively non-commercial’. Following advice on how they should respond, they reapplied but were still refused by the traffic commissioner.

The standard guidance from **DfT** has now had this paragraph added: ***“We are aware that some community transport groups are unclear about whether they can continue to operate using section 19 and section 22 Permits. To clarify this a letter outlining the groups of Permit holders who are exempt from Regulation 1071/2009 and can continue to operate under these permits, was released on 27 November 2017.”***

The new guidance is here:  
<https://www.gov.uk/government/publications/section-19-and-22-permits-not-for-profit-passenger-transport/section-19-and-22-permits-not-for-profit-passenger-transport#definitions>  
 The letter of 27<sup>th</sup> Nov here:  
<https://www.gov.uk/government/publications/community-transport-permit-holders-who-are-exempt-from-eu-regulation-10712009>

**Mobility Matters** has produced a guidance document to these changes available here:  
<https://ctpermits.org/dvsa-traffic-commissioners-already-changing-interpretation>  
 Any CT needing to apply for new or renewed Permits should read this first.

The appearance of the aforementioned further letter from **DfT** on 27 Nov has provoked a new level of controversy. This appeared the same day that **DfT** was giving oral evidence, but wasn't

mentioned to the **TSC**. The letter basically says that Regulation 1071/2009 does not apply if the operator's main purpose is not passenger transport and / or vehicles of less than 8 passenger seats are used. More complex, however, is **DfT's** exemption criteria in cases where there is no commercial market, which includes:

- ) services for which no bids were received for a local authority contract from commercial operations, and
- ) where a registered bus service is being run where there are no competing commercial services.

As we have seen in the case of **Flittabus**, applicants for Permits have themselves to provide evidence of the lack of a commercial market. We note that in general terms 'evidence' of a negative or void is often difficult to pin down, and how would a CT operator be able to gain evidence of something they can know very little about?



There are numerous elements of the letter offered by the DfT to clarify operating under section 19 and 22 permits that need clarification themselves, and we are working to do just that. **Mobility Matters is clear that all CTO's should continue to follow the long established advice and guidance from DfT and will not change from this until the consultation has been concluded and new advice and guidance has been agreed with the CT sector.**

Thanks to the contributions received so far, **Mobility Matters** has made considerable progress with quite a momentum. But much still needs to be done. Not least a full response to the most recent DfT letter and new guidance as well as moving forward with the political campaign whilst we await the consultation. In order to continue to support the sector and provide you with the latest information, we need further contributions. If you have not yet contributed, please check here, how you can do so  
<https://ctpermits.org/fund-appeal>

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