



**Community
Transport
Association**

**The CTAs response to the DoENI Consultation on the
Future of Bus Operator Licensing in Northern Ireland**

September 2010

The Community Transport Association

The CTA UK is a UK-wide charity giving voice and providing leadership, learning and enterprise support to member organisations, which are delivering innovative transport solutions to achieve social change. CTA UK promotes excellence through providing training, publications, advice and information on voluntary, accessible and community transport.

Voluntary and community transport exists to meet the travel and social needs of people to whom these would otherwise be denied, providing accessible and affordable transport to achieve social inclusion.

The CTA UK is the representative body for third sector passenger transport organisations in the UK. CTAUK member organisations are involved in the provision of transport, especially accessible services.

Our membership consists of 1400 organisations working within the community to deliver accessible, community led, transport solutions.

The CTA UK maintains offices throughout the UK. CTA UK's Northern Ireland office provides advice, technical and legal support for community transport organisations across Northern Ireland.

CTA UK's response to consultation

The CTA UK welcomes the opportunity to contribute to the consultation 'The Future of Bus Operator Licensing in Northern Ireland'. Our comments are shown on the following pages.

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Executive summary

The CTA UK is strongly opposed to the preferred option contained in the DoENI Review of Operator Licensing.

The CTA UK welcomes the opportunity to improve the s10b permit regime to ensure road and passenger safety is improved. We also welcome the opportunity for further discussion with DoENI to take forward an alternative proposal that will address legal and technical issues in order to modernise the system.

The CTA UK asserts the preferred option outlined in the consultation will not work effectively in Northern Ireland as it would have a significant negative impact on community life. Public transport in Northern Ireland does not provide access to isolated individuals and community groups. This has been recognised and confirmed by the 2010 DRD Public Transport Reform. The s10b permit has enabled community-based organisations to deliver transport and access solutions for isolated and vulnerable people in our society. The DoENI consultation proposes to radically alter the provision of community-led transport solutions without providing any attempt to understand why this type of transport provision is invaluable.

The preferred option creates an unintended barrier to volunteering due to the need for drivers to hold a commercial driving licence as stipulated for the option 3, tier 2 preferred proposal. The barrier to volunteering is created due to the cost, time and the impression of semi-commercialisation of the not-for-profit community transport sector. The proposal infers commercial driving licences will improve road safety. There is no evidence provided, nor is there CTA aware of any that confirms community or volunteer drivers are less safe or have had more cause for concern in their delivery of services, than drivers in the commercial sector.

The consultation aims to address two issues: one is road safety and the other is the reform of operator licensing. The community transport sector welcomes the intent to improve and modernise both. The CTA UK however is disappointed DoENI has confused the issue by trying to do both at the same time. Improvements to road safety can be addressed without having to commercialise the community sector and create barriers to volunteering.

Without any evidence base, DoENI has proposed a preferred option which benefits only the private/commercial transport sector in Northern Ireland. There is no attempt to understand or acknowledge the 650,000 passenger trips delivered each year by community transport service providers who, through collective community activity, are addressing social isolation, exclusion and meeting access needs.

The preferred option proposed by DoENI will negatively impact on all community and voluntary sector transport provision across Northern Ireland. Through the proposed insistence on volunteer and community drivers holding a commercial driving licence, the DoENI places financial barriers that will reduce the number of available volunteers and the community's ability to provide accessible transport to those unable to avail themselves of mainstream public transport provision, particularly in rural areas.

The DoENI has stated that the preferred option aims to address issues of road safety. There is no evidence to suggest community transport has ever contravened road safety regulations yet it alone is being targeted for fundamental changes to its road operating permit system. There have been no prosecutions and no history of accidents brought forward by either DoENI or DVA enforcement to support such a significant change.

The CTAUK is extremely concerned by the lack of understanding or knowledge shown by DoENI on the work of the community and voluntary sector in Northern Ireland. Without such knowledge, DoENI has proposed a new licensing system that will have no effect on road safety but will instead have a significant impact on community life in Northern Ireland by removing the opportunity for community organisations to develop community-based transport solutions to their needs.

Community transport exists to provide accessible transport solutions devised locally to meet the needs of individuals and isolated communities not served by public transport in the Province. By placing restrictions on the not-for-profit sector DoENI will undermine the work of the community sector. Northern Ireland will return to a time before the s10b permit was introduced where rural and social isolation was an increasing issue and access to essential services lacking (resulting in increased costs for non-attendance at health clinics, high levels of inequality and deprivation).

The proposed changes will create a difficulty for Northern Ireland in the EU context. Community groups, associations and many community halls developed in order to progress integration and cross community activities were and, continue to be, financially supported through EU peace and reconciliation programmes. Access to venues and clubs/associations, meetings and community functions is imperative to enable continuation of peace building, cross community work and integration of society. The impact on peace building, community cohesion and sharing will be very significant if accessible, local transport solutions are no longer possible due to the proposed restrictions of use placed on community vehicles and the consequent inability to involve volunteers.

Communities have already stated they are not able to access private or public transport options due to cost, lack of accessibility and inappropriate driver/vehicle provision. Community transport operated under the s10b permit regime provides a real and appropriate access solution for all communities. The DoENI preferred option takes no account of the need in our community for volunteer transport services and the benefit of services provided to society.

Community transport has already been recognised in the DRD Public Transport Reform as one of the main modes of providing feeder transport to the mainstream public transport network. By placing additional barriers, the DoENI will actually be working against one of the key policies of another government department.

The DoENI propose abolition of Designated Bodies. Designated Bodies are limited by law to a basic investigation of permit applicants in advance of issue. CTAUK has approached DVA on several occasions to request permission to ask more

information from s10b permit applicants. All requests to improve the situation were previously refused.

The CTA as a Designated Bodies fulfil a role that is more than just issuing permits. CTAUK receives in excess of 6000 email and 5500 telephone calls per year for technical support and advice from community transport operators in Northern Ireland. Issues range from vehicle specification (in order to comply with DDA - even though s10b permit holders are exempt from the NI legislation), driver licensing, type of work that can be legally completed under s10b rules, types of passengers permitted to be transported under s10b rules, speed limiters, maintenance and servicing intervals and driver training.

DVA and DoENI provide limited advice or technical support for s10b permit operation/operators. Indeed DoENI refers many organisations to CTAUK on s10b permit matters. To remove this technical and legal support framework from the current permit system or any subsequent system will leave a gap in support for the community sector that DOENI cannot currently provide. CTAUK has through dedication and constant contact with s10b permit holders increased the community's management of community led transport solutions and provided a non-commercial alternative driver training and assessment programme, which is recognised across the UK. This includes, at its core, the safe care and provision of transport services for people with disabilities and older people.

DoENI claim the community transport sector must be licenced in order to comply with DDA regulations. Irrespective of the DDA amendments (Jan 2010), community transport has led the provision of accessible and inclusive transport for over 25 years. The provision of a passenger-led service has ensured community transport delivers accessible vehicle solutions; trains drivers to meet the needs of people with disabilities; and works to promote diversity and disability inclusion. Community transport is not outside DDA regulations. All grants and support provided through government or other means require all community organisations to provide inclusive services.

DoENI has suggested that, as NI has its own jurisdiction and transport provision in the Province is regulated, the permit system can no longer be a viable operating option. CTAUK asks for clarification on this assumption. CTAUK proposes that DoENI should review the regulated provisions of the London area where both road operator licences and permits (in particular a restricted form of s22) form the basis of service provision¹.

CTAUK therefore ask that the current preferred option is reconsidered to take into account the needs of the community transport sector which performs a vital service for so many individuals and communities who do not have any access to conventional transport provision. The CTA strongly recommends, that the DoENI replicates in NI the s19 and s22 permit system, as operated in GB, which addresses the very same concerns raised in this consultation.

¹ (VOSA) Vehicle and Operator Services Agency (2009) "Passenger transport provided under Section 19 or 22 permits" VOSA: London [online] available from: <http://www.glosminibusscheme.co.uk/PSV385.pdf>

There is a strong need in the community for accessible, community led, transport solutions to be provided where public and conventional transport is not available or appropriate. CTAUK, therefore, asks DoENI to recognise the transport needs of our communities by not restricting its use. The CTA UK believes that improvements to road safety can be made while considering the needs of the Northern Ireland community.

Introduction

Community transport provides a pivotal role within community life across Northern Ireland.

Community transport is the community's solution to the problem of accessing services. Through the community's identification of a local transport need, a local organisation is set up. Run by and for the community, each community transport organisation is operated as a charity and on a not-for-profit basis.

The community centrally manages transport resources. By this, CTAUK can confirm the community have taken great effort to collectively pool and manage minibuses located within the community. Through sharing of resources, the community have successfully met the majority of access needs of isolated and vulnerable people limited by access throughout Northern Ireland.

Community transport provides alternative transport solutions for individuals and community organisations unable to access conventional public / private transport.

Community transport organisations are recognised for their provision of an excellent, well managed transport solution.

Community transport organisations are strong advocates of the s10b permit system in Northern Ireland. The provision of the existing legislation has enabled the community to work together to achieve a tangible transport solution within the local area, for government and for individuals in Northern Ireland.

In responding to this consultation, the CTA UK includes comments from our members, and from various organisations including regional infrastructure bodies concerned with voluntary and community activities. CTA UK also represents the views of other s10b Designated Bodies such as NIACRO; several Education and Library Boards and Health Trusts. CTA UK has met with Ministers and representatives of the government departments who would be affected by the proposals.

CTA UK has attended the public consultation events held by DoENI.

The CTA agree with DoENI's desire to modernise Operator Licensing in Northern Ireland to improve road safety but are opposed to the radical changes proposed to the s10b permit scheme. Our opposition and concerns are included in this response.

CTA UK strongly urge DoENI to reconsider the proposals regarding the creation of new licences to replace the permit scheme. CTA UK ask DoENI to review our proposals (including those of our members, other Designated Bodies and the community and voluntary sector) and consider a fourth option – modernisation of both Operator Licensing and the Permit Scheme².

CTAUK also ask DoENI to seriously consider extending the s10b permit to vehicles of less than 9 passenger seats (for example, people carriers) to ensure that volunteer drivers who do not hold a D1 (nfhr) category on their driving licence can deliver community transport solutions in smaller vehicles. Currently the community relies on the car sharing legislation to enable it to use smaller vehicles. There are areas of Northern Ireland where only a car-sized vehicle is appropriate for the road size of home location. By extending to cars (under 9 passenger seats, as has happened in the s19 improvements in GB) the DoENI will have taken into consideration the community need to ensure transport provision can be made in smaller vehicles that better suit narrow rural lanes and isolated individuals.

CTA UK also asks for consideration to be made to include a GB style s22 permit in Northern Ireland. This permit allows for the delivery of not for profit, registered services, where no existing bus route currently exists. The community can then make use of an s22 vehicle outside of specified route times to undertake commercial private hires, in order to subsidise any loss making S22 routes. There is a definite need for such a permit (in particular to serve isolated rural communities) now and in the future considering spending cuts and the loss of non-profit making routes. The terms of an s22 permit are not the same as the proposals included in option 3, Tier 2. That option is restrictive as it has not fully examined if a Tier 2 licence can be included legally in any tenders (EU compliant).

The CTAUK response includes comments on all aspects of the consultation document and is not limited to only the questions included in the documentation.

Issues with the s10b permit scheme

The consultation states a number of issues with the s10b permit scheme (pg. 7, 3.5.4). Please find CTA's responses to those statements

Currently there are a large number of “designated bodies” who have the authority to issue small bus permits, and there is no consistency in the way they are administered. There is no way of determining how many have been issued or their current status.

CTA UK consulted the DoENI Road Licensing Division and can confirm only 5 of the listed Designated Bodies have issued permits in the past three years. DoENI confirmed the active designated bodies to be: CTA (majority of permits), Western Education and Library Board, Castlereagh Borough Council, St John's Ambulance and Lisburn Borough Council.

² CTAUK proposals for Option 4 are contained in Appendix i of this document

Copies of all permits issued by Designated Bodies are held on file in DoENI's Road Licensing Division, Corporation Street. This central collection of data remains the control of DoENI.

To date, CTA UK is the only Designated Body who has provided a recent copy of their small bus permit database to DoENI. This database includes the name of the permit holder, lists all permits held by that organisation, details which permits are still active and any that have been cancelled by the holder or revoked by the CTA UK.

Only DoENI can issue s10b permits for buses over 16 passenger seats. Records for those permits are maintained by DoENI Road Licensing Division.

The provision of guidance for Designated Bodies from DoENI is limited, in fact CTAUK organised a number of training days for Designated Bodies. The scheme has historically been given inadequate resources and there has never been a central database maintained by DoENI. The CTAUK publication "A Guide to Section 10b Permits in Northern Ireland"³ endorsed by DoENI remains the main source of guidance on permit legislation. DVA enforcement officers meet with CTAUK to receive information on permit legislation.

CTAUK asks for a review of the number of Designated Bodies (similar to the review proposed by VOSA for s19 permits in GB). CTAUK also ask DoENI to review the work of Designated Bodies to look at their role, training requirements, legal responsibilities and monitoring arrangements. Concerns about Designated Bodies can be easily addressed. CTAUK proposes:

- The issuing body should not have a vested interest in the issuing of permits i.e. they should not be issuing permits to themselves
- There should be a reduction in the number of Designated Bodies in NI
- Designated Bodies should be required to complete training in the issuing of permits and in permit legislation
- Designated Bodies should be required to provide regular information to DoENI on any permits issued.
- There needs to be improvements in the recording of permits. Copies of permits are returned by Designated Bodies to DoENI Road Licensing Division. There is on file a list of all permit holders but no central database is maintained.
- DoENI to hold a central register of all permits issued detailing the issuing body, contact details of the permit holder and details regarding the permit (number, date issued etc.).

A s10b permit has no expiry date.

An s10b permit can be revoked by DoENI at any time. Even though a permit has been issued, DoENI retain the right to revoke a permit for failure to comply with legislation/permit regulations.

³ CTAUK: A Guide to Section 10b permits in Northern Ireland, sponsored by DoENI, prepared for CTAUK by TAS Partnership, May 1997

CTAUK is permitted to provide permits for members of our Association. If a group does not maintain membership with the CTAUK we advise that group we can no longer hold the permit and ask for the permit to be returned. In 2008 DoENI advised CTAUK not to revoke lapsed member permits. CTAUK however has continued to advise DoENI of all permits held by lapsed members – as CTAUK has no connection to those permit holders we are unable to monitor or check that organisation's compliance with s10b permit rules.

CTAUK suggest this concern could be addressed by the introduction of expiry dates on permits (in line with the recent s19 permit review in GB)

The length of permit validity should be in line with proposals for Road Service Licences and in line with the s19 permit Scheme in GB. CTAUK propose a 5 year permit. Permits issues prior to the change will be valid for 5 years from the date that changes are introduced.

A s10b permit is a virtually unconditional exemption from normal vehicle, driver and operator licensing requirements.

A s10b permit does not exempt vehicles and drivers from road traffic law.

Legislation passed amending The Transport (Amendment) (Northern Ireland) Order 1990 (S.I. 1990/1994) concurs the effect of Section 10A is that with a valid s10b permit, no additional licences are required for operation, the driver of the vehicle, other than those that would apply to any private vehicle of the same size. Thus, for example, drivers of all vehicles with a capacity for more than 16 passengers are required to hold a full PCV or Drivers CPC (D) licence. This applies to all large s10b permits – over 16 passenger seats.

It is important to note that for other purposes the vehicle remains a Public Service Vehicle. This is important for two reasons. Firstly, because other regulations which apply to Public Service Vehicles will also apply to s10b vehicles, unless specifically stated otherwise. Secondly, because if there is a breach of the s10b permit conditions, then the vehicle will be treated as if it is an unlicensed PSV, and subject to the relevant penalties, which are substantial.

The original rules in the regulations were deliberately created so as not to hinder community / voluntary activity.

The s10b application process set down by DoENI and CTAUK creates more stringent checks and balances. E.g. when issuing permits the CTAUK requires an undertaking that the roadworthiness of the vehicle shall be maintained and that regular safety inspections must take place at intervals not greater than 10 weeks. The same as required by VOSA of PSV operators. CTAUK also requires the applicant to demonstrate insurance cover is appropriate and the insurer is aware of the activity being undertaken. CTAUK requires the applicant to confirm drivers will obtain additional training to reduce on road risk and to increase safety for

passengers. The sector in NI has adopted the nationally recognised MiDAS standard.

The CTAUK does not believe that permits create lower standards – our sector exists to provide high quality, needs based transport.

In NI, MOT standards for permit minibuses are virtually, if not all the same as a PSV, Class IV and V as opposed to VI.

Driver licensing for permit minibuses does not require the driver to hold a PCV D1 entitlement unless the driver passed their driving test after 01/01/97 and is paid to drive. No evidence exists that minibus drivers not holding a PCV D1 have been a cause for concern.

NI has been particularly successful in promoting the widespread uptake of the Minibus Driver Awareness Scheme (MiDAS). Over 3,000 drivers have completed MiDAS (Minibus Driver Awareness Scheme) in Northern Ireland⁴. MiDAS provides training and assessment on safe and efficient driving and care of passengers. MiDAS has increased passenger safety as this can be evidenced by the low claims ratio⁵ for community transport vehicle insurance. MiDAS also provides regular refresher training and assessments of driver capability. This practical driving assessment every four years exceeds any comparable risk management arrangement in any driving occupation.

There is no charge for a s10B permit and therefore there is no mechanism for the Department to recover its costs.

The original implementation date for the regulations was delayed (from 1990 to 1994⁶) to rectify the issue of charging for permits. The regulations do not preclude Designated Bodies from charging to process applications or to issue permits.

CTAUK charges £7 to process a s10b permit. This charge covers the cost to administer the process and includes making contact with the applicant to discuss the regulations, ascertain the activities of the applicant and confirm if they meet CTAUK's Designated Body requirements and s10b rules.

The issuing of s19 permits in Great Britain has always attracted a fee (currently £11 from VOSA and £7 from the CTAUK). The consultation document in 3.2.refers to 2500 operators under permits – assuming 2500 permits, renewable after 5 years, could equal 500 renewals per year @ £11 could equal £5500 per annum.

Should Designated Body status continue, DoENI has the ability to set a fee for each permit and bill Designated Bodies for each permit processed. In GB blank permits are provided to Designated Bodies for free. However, a payment could be required, this is not a new concept and works well for other government agencies. E.g. this is exactly the same financial arrangement adopted by the Criminal Records Bureau for

⁴ Source MiDAS records, CTAUK Hyde

⁵ HSBC confirmed the claims ratio for the CTANI Fleet insurance was under 40% for the 2008/2009 period

⁶ The Transport (Amendment) (Northern Ireland) Order 1990 (S.I. 1990/1994)

NI, AccessNI. AccessNI Umbrella Bodies such as CTAUK are billed for each enhanced or standard disclosure check processed. The AccessNI Umbrella Body (CTAUK) then bills each member organisation the appropriate AccessNI fee plus a small administration charge.

The legislation does not clearly define the activities that the permit is intended to cover.

In order for an organisation to be eligible to hold a permit they must be a non-profit making organisation providing transport concerned with education, religion, recreation, social welfare or other activities of benefit to the community.

Transport provided under a s10b permit may not be “used for the carriage of members of the general public nor with a view to profit nor incidentally to an activity which is itself carried out with a view to profit”⁷

Transport supplied under an s10b permit enables not-for-profit transport to be provided for normal charitable purposes which are aimed at incorporating a wide range of activities. Should the current proposal limit charitable activities then this will have a negative impact on community life in Northern Ireland. Limiting community activity would contravene Equality and DDA legislation and have a negative impact on volunteering.

In GB, VOSA and the CTAUK have introduced a questionnaire to help verify an organisation’s eligibility for permits. These are working satisfactorily with a number of organisations being refused permits.

Permit services are limited to five specified classes of passengers as identified on the permit. These are: A: Members of the body holding the permit; B: Persons whom the body exists to help, and persons assisting them; C: Persons who are physically or mentally handicapped or seriously ill, and persons assisting them; D: pupils or students of any school, college, university or other educational establishment and staff or other helpers accompanying them; E: Other class of persons specified in the permit (details of the persons supported through Other must be defined).

All services provided under permit are ‘not for profit’

The s10b permit exempts holders from the requirement to comply with disability discrimination legislation.

For over 15 years, and until the removal of the DDA exemption on private operators (Jan 2010), community transport provided the only consistent, national, accessible transport option in Northern Ireland. The CTAUK and its members developed a specification of a training and assessment scheme which resulted in the MiDAS (Minibus Driver Awareness Scheme), a nationally recognised, accredited community/volunteer driver training scheme. MiDAS trains drivers to deliver safe passage and provide appropriate care for people with disabilities and limited mobility.

⁷ Section 10b (2) (b)

MiDAS provides specific training for drivers on the safe passage of people with disabilities including: training on how to secure a wheelchair in a vehicle, how to guide and support passengers with sensory or physical disabilities, etiquette and use of appropriate terminology and language and provide guidance on legislation such as DDA requirements. Since the change to DDA, CTAUK has evidence of an increase to the number of private operators now adopting the MiDAS standard. MiDAS provides the only relevant training for drivers in the safe carriage of wheelchairs and general information on how to provide services for people with disabilities. Community transport remains committed to the delivery of transport solutions that meets the individual's mobility needs.

Disappointingly, community transport was excluded from the changes to 2010 DDA regulations⁸ with many government departments assuming community transport is somehow outside all DDA regulations. DDA does not exempt s10b permit holders.

The 2010 DDA changes were targeted at mainstream services for the general public which falls outside of the remit of s10b. This is a feature in the DDA legislation and not a reason to radically change the ability of community transport to deliver local transport services in Northern Ireland. S10b permit holders have been operating fully accessible vehicles, with fully trained staff and the best safety equipment since well before the advent of the DDA.

DoENI appears to be confusing the PSV Accessibility Regulations that require all mainstream bus services to be low floor by a specified date with DDA changes. The new regulations only apply to buses with 22 seats or more therefore minibuses are excluded, irrespective of who the operator may be. Changes to the s10b permit or the Road Service/ Operators Licence will not address this issue.

It is difficult to establish that passengers are being carried on a non-profit making basis.

Community transport is operated on a not for profit basis under the Section 10b permit rules as outlined in regulations s10b (2) (b). That legislation allows provision for a fare to be charged for services to cover the operational and running cost of the vehicle.

Community transport can be grant funded and has received support through various government schemes. This funding has helped to reduce the fare cost to passengers to enable the most vulnerable in our society to access affordable transport where conventional options are not appropriate or available.

There is no evidence that community transport organisations make profits and compete unfairly against the commercial sector for business. The CTA UK would suggest that the proposals in the consultation are unfairly positioned to protect commercial operators while adversely affecting legitimate community transport organisations and creating barriers to volunteering.

⁸The Disability Discrimination (Transport Vehicles) Regulations (Northern Ireland) 2009 came into effect 25 Jan 2010.

The sector has developed an approach to full cost recovery which allows community transport operators to calculate vehicle operating and running costs. After deduction of any income from donations, grants or fundraising, the operational/running cost is divided by the number of passengers/miles to evidence a non-profit fare amount. This calculation is reviewed on a quarterly basis to ensure any monies collected do not result in profit. This information can be supplied by any community transport operator. CTAUK welcome DoENI's endorsement of the calculation. By confirming the fare calculator as an appropriate tool, DoENI will provide the community transport sector the ability to provide and promote fares that are both transparent and in keeping with permit regulations.

Any inference of illegal profitmaking is not evidenced in any DoENI information and is not supported but any source available to the CTAUK. If there are s10b operators who charge fares to make a surplus then they are working outside the s10b permit regulations and any resulting DoENI or DVA investigation would be supported fully by CTAUK.

CTAUK has already worked with DVA's enforcement team to support the successful prosecution of an operator using a fake s10b permit.

CTAUK has requested a meeting with DVA enforcement to discuss and take forward an agreed procedure for checking the not-for-profit status of s10b permit operations.

The CTAUK response to Review of Operator Licensing Questions

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Address	As above
Postcode	
Telephone number	
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Type of Organisation	National charity provide advice and technical support to community transport operators
	1400 community transport operators (members of
No. of views represented	CTAUK)

CTAUK Response to the DoENI Consultation on the Review of Operator Licensing in Northern Ireland

Q1— Do you find Option 1 to be a feasible option for consideration?	Yes	✓
	No	

Additional comments:

Having considered all options on offer CTAUK believes the Option One proposal is preferable to both Option Two and Option Three.

CTAUK propose significant changes are made to the permit system in order to improve the system. Changes to the permit system need to be considered therefore CTA recommend DoE add an Option 4 to their proposals.

- DoENI suggest a disadvantage of the existing system is: it's not flexible enough to deal with the variety of bus transport providers currently operating. Why and where is the evidence? It would appear from the preferred proposal that they believe that s10b is too flexible.
- The concept that a transport provider has to be either licenced (i.e. has to meet full licensing requirements) or exempted (i.e. does not have to meet any requirements) does not support a level playing field for the industry to operate in. s10b recognises that there are different types of services – those available for the general public (RSL operation - level playing field) and those services specifically not for the general public, usually where no commercial service exists (s10b precludes services available to the 'general public').
- Commercial bus operators perceive 10B permits as providing a back door into the industry, potentially allowing unfair competition. CT delivers services to people / and in areas that the commercial operator(s) do not want to operate in, either because it is not profitable and/or there is no subsidy available. This commercial ethos means that non cost effective and marginal services are often not provided and this has traditionally been the area that CT has served. Over the years CT has been successful in developing these services and raising awareness of their value to communities – this has resulted in these services becoming 'mainstreamed' – and has attracted interest from the commercial sector.
- s10b permits provide the holder with permanent exemption for all transport activities. s10b affords some concessions to operators in recognition of the not for profit requirement for the services delivered. Permits are not for life as they can be revoked. When revoked the operator is liable for noncompliance with PSV / Operator Licensing regulations.

Q1 — Do you find Option 1 to be a feasible option for consideration?

Better than option 2 and 3, but would support reviewing the s10b along the lines of the S19 review in GB and the addition of a s22 type permit in order to support the aims of the DRD's Public Transport Reform.

Q2— Do you find Option 2 to be a feasible option for consideration?	Yes	
	No	✓

Additional comments:

5.2.1 Create a single licensing scheme for all. The existing operator licensing regime would be extended to cover all bodies currently operating under 10B permits.

5.2.2 Advantages

- It would create a level playing field as all bus operators would have to meet the same requirements. Level playing field for which services? There should be a distinction between commercial services for the general public and not for profit non-commercial services for 10b eligible passengers. Why would a commercial operator want to deliver ‘not for profit’ services?
- It would be a completely transparent system and would be fully enforceable. The existing 10b regime favours a lighter regulatory touch and this has had no detrimental impact on the quality and safety of the services delivered within it – if it has, where’s the evidence? Any significant breach of 10B operation could be dealt with by a revocation of the permit – the same as that for a commercial operator with an RSL.
- All operators would be competing on an equal basis. Again – “competing”, for which services exactly?
- It would contribute to road and passenger safety as it would ensure that all vehicles were suitably maintained and licenced and all drivers appropriately licenced. Where is the DoENI evidence for this – MiDAS and CT maintenance standards have not been found wanting.
- It would do away with the 10B permit scheme. That the legacy and the benefit that 10b has afforded for over 15 years can be disregarded to the extent that ‘doing away’ with 10b is seen as an “advantage” is very telling – possibly the main driving reason behind the consultation is to remove 10b operators so that the work can be undertaken by RS/OL holders – a change that would clearly result in less people travelling because of increased fares.

5.2.3 Disadvantages

- It would have serious financial implications for all the voluntary groups who operate on a completely non-commercial basis. Not costed in the impact assessment. CTAUK has costed the impact of making all drivers (including volunteers) complete a commercial driving licence – DoENI fees £750,000 (based on 3000 drivers and £4.5 million for the full cost of DoENI fees and training costs.

It would have serious administrative implications for the Department as it would have to licence the hundreds of church and community groups who currently operate under 10B permits. Not costed by DoENI and, together with consequential new enforcement costs would make the option not viable in the current economic climate.

Q3— Do you find Option 3 to be a feasible option for consideration?	Yes	
	No	✓

Additional comments:

5.3.3 **Tier 2** would make greater use of restricted operator licences. Here an applicant would have to meet the same repute, vehicle and driver licensing requirements as for a full licence but lesser financial and competence requirements. The licence would restrict the operator to operating minibuses (9 – 16 passenger seats). These operators would be able to pay their drivers and cover their operating costs. Regulatory impact cost of implementing this is not stated. Would tier 1 operators be allowed to bid for tier 2 ‘not for profit’ contracts? Should it be assumed that the ‘level playing field’ argument expounded above is addressed by this as it will increase the operating costs of the ‘not for profit’ sector to the same level as an RSL operator, whilst at the same time limiting their opportunities to making a profit? How’s that fair? The end result would surely mean a reduction in the type and availability of services to existing 10b users plus an increase in passenger transport costs.

How many vehicles will be allowed under Tier 2 licences? In GB restricted O licences are for a maximum of two vehicles.

5.3.4 **Tier 3** would be a scheme with similar aims and objectives as 10B permits but would take the form of a licence rather than a permit. An applicant would be responsible for ensuring that repute requirements are met. Groups operating appropriately within the 10B permit would be unlikely to notice any difference. Transport would be an ancillary activity for the group, not the main function. If the driver is required to be not paid – how would this be determined e.g. a school caretaker with a D1 (101) entitlement has a job description that includes driving the school minibus, in effect they are being paid to drive – would this require either a tier 2 or 3 licence?

Why should a charity established to provide transport for disadvantaged, socially excluded groups, etc. be excluded from the Tier 3 licence. Permit legislation was introduced to allow not for profit organisations that use minibus transport to facilitate their activities for the benefit of their clients / members. Many such organisations without the resources to own and operate their own vehicles are reliant upon transport charities – CTs –to obtain transport. The establishment of CT is the most cost effective means of providing transport to many different individual groups, resulting if much higher vehicle utilisation, than lots of groups having their own vehicles, often parked up and unused for much of the day.

5.3.5 Advantages

- Restricted operator licences are currently being used to licence groups whose operation is not strictly voluntary. What are the examples for this and what is meant by voluntary in this context? – paying a driver does not place CT outside of the scope of the voluntary sector.

- It would be a completely transparent system which would be fully enforceable as all tiers would have specific conditions set out in regulations. The 10b permit regime can be enforced and permits can be revoked.
- It would address the concerns of commercial operators as those with restricted licences or permits would be limited in the types of activities they could carry out. 10b permits already restrict the activities of permit holders to not for profit operations and services not available to the general public. The CT sector serves only a minority of passenger transport journeys – the majority is already within the commercial sector.

Is DoE confirming the creation of new licences for the community sector aims to create an unfair market which excludes social enterprise? This statement is quite telling as it confirms DoE commitment to addressing inferred concerns raised by the commercial sector and the attempt to limit and control activities within the not-for-profit community and voluntary transport sector.

- It would contribute to road and passenger safety as it would require that all vehicles were suitably maintained and licenced and all drivers appropriately licenced. Evidence required justifying this assertion.
- It would maintain the aims and objectives of the existing 10B permit in that voluntary groups would not have to meet the same rigorous standards as full and restricted operator licence holders. Can DOENI define what they mean by a 'voluntary group', because voluntary groups can have paid employees as well – if drivers are being paid either a salary or only out of pocket expenses does that necessarily tip them into tier 2 – if so what would the impact of this be?
- It would allow church and voluntary groups to operate similarly to the way they do now. What if a paid worker is driving the minibus?

5.3.6 Disadvantages

- It would require significant resources to develop and introduce the legislation. Cost? Training of DoE and DVA staff to understand the community and voluntary sector
- It would require additional resources to operate and administer the new licensing regime. Not costed.

It will have additional financial implications for the voluntary groups. Not costed and not in the impact assessment.

Q4— Which of the options proposed do you believe to be the most viable?	1	✓
	2	
	3	

Additional comments:

Option 1 but ideally a new Option 4 would be included with a review and update of the 10b permit regime.

CTA propose Option 4 to include:

- The Operator’s Licence – improved to ensure appropriate carriage of people with disabilities in line with DDA requirements (see CTAUK answer to Q5 below).

Q5— Do you agree with the requirements detailed in relation to Tier 1 applicants?	Yes	
	No	✓

Additional comments:

The CTAUK promotes access and accessibility of transport services. CTAUK recommend as part of Tier 1 stipulation that drivers of commercial vehicles are required to include the following training as part of their Driver CPC qualifications: Disability and Equality training and or customer care training.

All Tier 1 applicants must include details of at least one fully accessible vehicle (meeting full DPTAC 2007 specifications) in their application otherwise the application will not be accepted.

Q6— Do you agree with the requirements detailed in relation to Tier 2 applicants?	Yes	
	No	✓

Additional comments:

The creation of a restricted semi-commercial bus operator licence creates an unfair playing field. Any operator providing services under this licence will not be permitted to deliver contract work as current CPD and other procurement processes do not recognise this type of licence. It is a pointless consideration created to segment the Community Transport sector.

The financial threshold needs to be very different to the Tier One level. It needs to be in line with much smaller turnovers and reserves. There also needs to be the opportunity to make a charge to cover the operating and running costs on a full cost recovery basis.

The financial impact of training all drivers to obtain a commercial licence has not been costed or the impact realised in this consultation. Many CT drivers are volunteers. All volunteer drivers interviewed by CTAUK in advance of this

consultation have stated the financial cost, time and commercialisation of their voluntary work create barriers to their ability to deliver services.

The consultation has not considered other government strategies in its proposals. In particular Tier Two requires the Community Transport operation to only use commercially licenced drivers. This is an unfair barrier for volunteers who drive centrally managed vehicles within the community. **This may be an unintended consequence but the impact will seriously impact the community and voluntary sector in Northern Ireland.**

The DSD work on a national volunteering strategy⁹ has been ignored. In the DSD document Proposal 14 states “In line with the *Compact between Government and the Voluntary and Community Sector in Northern Ireland*, Government will seek to ensure that volunteering is protected from the unintended consequences of legislation and Government policy”. The barriers created in Tier two completely disregard the impact on volunteer drivers and the detrimental consequences to volunteering in transport. The increased cost of operation will impact on community life having a negative impact on community development (closure of clubs and societies providing support for: older people; people with disabilities; youth; women; unemployed; ethnic minorities and children).

In failing to consider other government department’s work programmes DoENI are in breach of DSD proposal 41 where government are tasked to “Develop mechanisms to ensure that the cross cutting nature of volunteering is reflected in close working between Government departments”

There is no consideration in Tier two to the UK derogation on driver licensing which permits drivers who passed their test before 1 Jan 1997 to drive a minibus under the D1 (nfhr) licence category. Drivers holding a pre-1997 driving licence are permitted to be paid and / or volunteer to drive minibuses for non-profit organisations. Drivers who obtained their driving licence on or after 1st Jan 1997 can still drive a minibus under a B category licence as long as certain restrictions are met: they must be over 21 years of age; drive in a voluntary capacity; the GVW or MAM does not exceed 3.5 tonnes (or 4.25 tonnes for accessible vehicles) and they do not tow a trailer.

The consultation proposes to remove these rights from Northern Irish drivers. DoENI are attempting to remove the rights of Northern Irish drivers and make a difference between people living here and in GB. GB drivers are permitted under the s19 and s22 licences to drive under the terms of the UK derogation, why is DoENI attempting to destroy what is legal elsewhere in the UK?

By separating community transport into two licensing categories the DoENI will create a negative impact on those communities who have specifically created charitable, not-for-profit transport companies to meet local need. The Community has been working to share resources such as community minibuses to effect efficient use of money and to ensure sound management of those resources.

⁹“ Join IN, Get Involved: Build a Better Future”, DSD, July 2009

For example: Brokerage: In a community there is one minibus owned and used twice a week for a church, another minibus is owned and used by a local school three times per week during term time and another minibus is owned and being used once a week by a youth club. This means there are 3 minibuses available that have opportunity to be used more to meet the needs of the wider community. The community come together in agreement, with minibus owners, to share the resources within existing funder guidelines to ensure appropriate accessible transport is available locally. The Community create a new charitable, not-for-profit community transport company who take on all management, monitoring, bookings and control of the vehicles. The centralisation of resources means there is a skilled volunteer or employed community worker to manage the minibuses, be aware of legislation and limitations or permit operations and ensure all drivers are trained and appropriate checks are completed before those minibuses are used to transport the Community.

Although the initial purpose of the minibuses was to provide ancillary transport to support the work of the three organisations (church, school or youth club) the community has enabled the development of shared resources capable of meeting many more people's needs. This organisation however will, under the proposals for Tier 2, no longer be able to allow volunteers to drive under the terms of the UK derogation on driving licences, to have to increase hire costs to cover new costs such as commercial driver licensing, operating centre costs and 'hire and reward' insurance.

CTAUK proposes more investigation should be made of the impact on communities who have worked to create efficiencies such as the brokerage system outlined above. Why should a charity whose main aim or objective is to provide or deliver affordable, accessible transport solutions be treated as differently to another charity (who can register under Tier 3) whose main aims and objectives could be to support health and well-being or to deliver youth club activities? On many occasions the latter charity will deliver more passenger trips per week than a small dedicated community transport charity.

Q7— Do you agree with the requirements detailed in relation to Tier 3 applicants?	Yes	
	No	✓

Additional comments:

The number of community organisations owning their own minibus is diminishing.

The community has developed and created Community Transport organisations to centrally manage and supply legally complaint transport, manage minibus resources and drivers.

The Tier 3 option requires a community group to own their own minibus in order to qualify for the Voluntary Group Operator Licence. Not all communities and charities have their own minibus. What if those groups use a centrally managed minibus operated by a Community Transport organisation? Does this group them have to

comply with the proposals contained for Tier 2? Will volunteer drivers have to obtain a commercial driving licence to be able to transport a charity or non-profit making community group or to assist vulnerable individuals in their community?

If DoENI allow a Tier 3 community group to use a Tier 2 vehicle who then is legally responsible for the maintenance records, driver records, driver checks, operating centre or financial repute?

The number of community organisations who currently make use of centrally managed community transport is in the region of 2500 – 3000 individual charities. This amount is on top of the number of permit holders stated in the consultation. Will each community group have to apply for a Tier 3 permit – is this not adding another level of bureaucracy to the existing s10b permit system which is shown to work? If community organisations have to apply for a licence in order to use a minibus it will not improve road safety but will actually create more issues. In the public meetings a Coleraine church confirmed if they had to complete more ‘red tape’ in order to use a community bus driven by a MiDAS trained driver they would return to using 3 cars. Not only would this increase emissions but it puts two more vehicles on the road where drivers will not be required to take additional training.

Many charities have now pooled resources to enable appropriate management and maintenance of vehicles. Those charities depend on the skill of the centrally co-ordinated community transport charity set up to provide an effective and efficient use of community resources such as minibuses. If DoENI now state each community group may use the vehicles of a Tier 2 but must hold their own Tier 3 Community licence, who will be skilled to ensure all drivers are compliant and trained, minibuses are legally compliant and records are appropriately maintained. It will mean the community licence will have to be provided to over 2500 individual community groups. Will DoENI be able to manage this increase? If a Tier 3 operator is found to contravene the rules of Tier 3 and the bus is impounded will DoENI compensate the Tier 2 operator for loss of vehicle and costs?

The DoENI proposals have not considered the community landscape when composing this consultation. DoENI have missed the fact that capital funding for ‘mobile units’ such as minibuses was stopped because of changes to EU funding regulations over 2 years ago. Government departments have moved to revenue based as opposed to capital based funding again stopping the capital purchase of minibuses. Where there is a minibus in the community, the community have agreed to share and make best and efficient use of the resource. In order to ensure that resource is appropriately managed they have set up a community transport organisation tasked to operate the vehicle within s10b permit rules, manage maintenance in line with VOSA roadworthiness and passenger safety guidelines, monitor and manage drivers to ensure only those with appropriate licences and training safely transport the community. The efficiencies created and effectiveness of the system has grown the sector to a point where commercial operators are now accusing the not-for-profit sector of taking their work. This is not the case. Community transport continues to deliver not-for-profit, community led transport solutions. Now the community has created a central management of resources DoENI propose the introduction of a licensing structure that turns the process on its

head. No longer will the community be able to deliver services using the centrally managed minibus resource driven by volunteers or D1 (nfhr) community drivers. Instead the community will now have to go out and buy individual minibuses in order to comply with a Voluntary Groups Operator Licence.

Where a voluntary group does run its own minibus they need to be able to collect a not-for-profit fare based on a full recovery calculation. The consultation does not include the ability for a Tier 3 to be able to collect fares. Who is going to pay for the transport? There are virtually no NI grants available to meet transport costs. If the passenger group is unable to contribute through a fare then how will this operation be able to afford maintenance, train drivers etc.?

Q8— <i>Do you agree with the proposal of separate carriage of alcohol on buses?</i>	Yes	✓
	No	

Additional comments:

Community transport operated under an s10b permit has a blanket ban on alcohol consumption on vehicles.

CTAUK agrees with the DoENI proposal but asks how this will be managed? How can a driver ensure passengers do not carry alcohol onto vehicles? Some passengers who use community transport to go for shopping may carry a bottle of alcohol back in their bag, will the new rules ban all carriage of alcohol? Will drivers be empowered with stop and search capabilities?

Will DVA enforcement prosecute a driver who unknowingly carries passengers who bring or consume alcohol on vehicles?

Q9— <i>Do you agree that the Department will be the only body with the power to issue permits?</i>	Yes	
	No	✓

Additional comments:

We do not believe the DoENI should be the only issuer of permits to the community and voluntary sector.

The CTAUK proposes the system of Designated Bodies is retained with DoENI acting as the central management and policing of the system.

Due to the years of support provided CTAUK has ensured s10b permit operators deliver services that are both legally sound and safe for passengers. Evidence of this can be taken from the fact no s10b permit holder has been prosecuted for failing to meet the terms of the permit.

Designated Bodies have the ability, experience and skills to provide more than just permit processing. We have the commitment and time to visit applicants, review vehicles, support applications for insurance, and help organisations to manage driver records and training.

Permit processing needs to be delivered by a specialist organisation with an understanding of the community and voluntary sector.

DoENI have so far failed to understand or engage appropriately with the community and voluntary sector. This has led to a lack of confidence in DoENI by the community and voluntary sector. DoENI and DVA are understood to provide policing of permits. Community groups interviewed by CTAUK confirmed they are wary of contacting DoENI to ask about permits or to get advice because they believe DoENI/DVA will instigate prosecution. When groups have contacted DoENI/DVA they are referred to CTAUK.

DoENI Road Licensing Division refers organisations to CTAUK on a weekly basis. These referrals take place because it seems there is no one available within the DoENI who can provide advice on permits or legislation regarding the operation of community minibuses.

<i>Q10— Do you agree with the proposed five year review period?</i>	Yes	✓
	No	

Additional comments:

CTAUK support the 5 year review period. CTAUK propose permits can be restricted to less than 5 years if there are monitoring issues arising from the application.

<i>Q11— Do you agree with the proposal in relation to variation of vehicles on a licence, as long as the original authorised number is adhered to?</i>	Yes	✓
	No	

Additional comments:

In order to permit expansion of business CTAUK would support allowing operators to add up to an additional 3 vehicles before having to submit a new application.

By allowing vehicles to be moved off or onto an existing licence DoENI will support an operator's ability to properly maintain and replace vehicles.

<i>Q12— Do you agree with the Departments proposal to publish notices of licence application?</i>	Yes	✓
	No	

Additional comments:

CTAUK agree with the proposal to publish notices of Operator Licences.

There appears however to be an assumption that the s10b permits will convert to operator licensing. Should the permit regime remain what proposals do the DoENI have for publishing permit applications?

CTAUK Response to the DoENI Consultation on the Review of Operator Licensing in Northern Ireland

Q13— Do you agree that the listed bodies should have the ability to make objection on the grounds of fitness, finance and the professional competence of an operator, and environmental/ general suitability of an operating centre?	Yes	
	No	✓

Additional comments:

The CTAUK strongly objects to this proposal.

CTAUK would like clarification on what or who is meant by a prescribed trade union or association. Does this include Trade Associations? If so then this could create some difficulties. The Federation of Passenger Transport (FPT) is a Trade Association for the private passenger coach/bus industry. If a Trade Association makes complaint on the grounds of financial or professional competence will the DoENI share information about the applicant with a trade association? How will DoENI protect commercially sensitive and confidential information provided by applicants?

Is inference enough or will DoENI require the complainant to provide evidence?

Q14— Do you agree with owners/ occupiers in the vicinity of an operating centre would have the ability to make representation to the Department on environmental grounds?	Yes	
	No	

Additional comments:

CTAUK is unable to clearly answer as the term 'environmental grounds' has not been defined.

Q15— Do you agree that any person may complain about the suitability of an operating centre at any time during the licence/ permit validity?	Yes	✓
	No	

Additional comments:

Once the terms of an Operating Centre have been clarified and included in the Licensing terms then yes CTAUK does agree anyone would be able to complain as long as the complaint is relevant to the content of the Licensing terms.

Q16— Do you agree with the factors considered in relation to suitability of an operating centre?	Yes	✓
	No	

Additional comments:

If the DoENI proposal to have a Tier 3 licence (Voluntary Group Operator Licensing) there will be difficulty for voluntary groups to comply with some aspects of the Operating Centre. Most groups cannot afford to have a private enclosed car park and rely on the shared use of church or community centre car parks, use of the local school grounds etc.

The DoENI need to take into consideration the requirements of an Operating Centre for smaller community organisations. If the requirements mean increased costs then DoENI need to consider the economic, equality and rural impacts of their terms.

<i>Q17— Do you agree with the proposed conditions which may be applied to a licence in relation to environmental conditions?</i>	Yes	
	No	✓

Additional comments:

The community and voluntary sector do not work to a 9-5 weekday schedule. The environmental conditions will need to consider the wide ranging activities and operating times of all operators when considering environmental conditions.

CTAUK is disappointed DoENI have not included any actual environmental safeguards in this section. There is no reference to the safe storage or disposal of fuel or other lubricants/liquids. There is no mention of how emissions could be limited in the operating centre (no vehicle idling etc.). There is no consideration to the limitation of water use in Operating Centres. There is no consideration to health and safety regulations.

<i>Q18 — Do you agree with the declaration required with the application form in relation to vehicle maintenance/ servicing and compliance with traffic and transport related laws?</i>	Yes	✓
	No	

Additional comments:

Community transport operators already comply with vehicle maintenance and servicing requirements. CTAUK supports the DoENI proposal on compliance.

<i>Q19 — Do you agree with the public enquiry proposals?</i>	Yes	✓
	No	

Additional comments:

CTAUK agrees with the public enquiry proposals.

Again DoENI have presumed the s10b permit system will change to Operator Licensing. There is no mention of how the same process would be considered when a permit application is made or when there is a major variation to the permit.

Q20 — Do you agree with the Departments proposal on disciplinary actions, and the powers to revoke, suspend or curtail licences/ permits as a result of this?	Yes	✓
	No	

Additional comments:

Where a licence holder fails to comply yes CTAUK agrees to the proposals.

Again DoENI have presumed the s10b permit system will change to Operator Licensing. There is no mention of how the same process would be considered when a permit holder no longer fulfils the requirements for holding a permit.

Q21 — Do you agree with the Departments proposals on appeal procedures?	Yes	✓
	No	

Additional comments:

Yes where an applicant wishes to appeal the decision of the Department

Again DoENI have presumed the s10b permit system will change to Operator Licensing. There is no mention of how the same process would be considered when a permit holder wishes to appeal against a Designated Body or the Department

Q22 — Do you agree that the Department introduces fees on a cost recovery basis?	Yes	✓
	No	

Additional comments:

CTAUK agrees the Department can charge fees based on a full costs recovery basis.

CTAUK would like the Department to produce a full breakdown schedule of fees to ensure efficiencies are maintained in fee calculations

Q23 — Do you agree with the proposals in relation to impounding of vehicles?	Yes	✓
	No	

Additional comments:

CTAUK agreed to the scheme for detention or impounding of illegally operated buses.

CTAUK encourage DoENI to ensure all arrangements for the forward transport of passengers are fully accessible and can meet the needs of people with disabilities.

Again DoENI have presumed the s10b permit system will change to Operator Licensing. There is no mention of how the same process would be considered for permit holders.

Q24 — Do you agree with proposals relating to the strengthening of on-road enforcement?	Yes	
	No	✓

Additional comments:

Community and voluntary drivers are exempt from driver hours rules. Community buses are exempt from tachographs – how will DoENI enforce the driver’s hour’s rules without driver’s cards or tachographs?

If DoENI propose changing legislation to introduce tachographs for community buses who will fund retrospective fitting? – Why was this not considered in 2007 when speed limiter legislation came in?

CTAUK are disappointed given the removal of the DDA exemption from private operators etc. there is no consideration to checking passenger lifts and annual test certificates, for enforcement officers to check the safe and secure carriage of passengers using a wheelchair (is the wheelchair appropriately secured within the vehicle), the use of seatbelts or appropriate passenger safety systems.

Given the control of alcohol on vehicles, CTAUK support the enforcement of no-alcohol consumption on buses.

Q25 — Do you agree that the Department must change the NI system of Bus Operator Licensing in order to bring it up to date so that it contributes to the provision of a fair and safe passenger transport industry?	Yes	
	No	✓

Additional comments:

CTAUK agrees the Bus Operator Licensing needs to be modernised so that it contributes to the provision of a fair and safe passenger transport industry.

We do not agree that the community and voluntary sector should be targeted when there is absolutely no evidence provided by DoENI or any other body to state the s10b permit system is failing in road safety or on any other grounds.

The assertion that the NI system must be changed to commercial licensing is suggested because Northern Ireland transport is under a regulated system. The GB situation is certainly unregulated and therefore can offer a wider consideration of licensing and permits to deliver services. However London transport remains regulated and is able to exist with both road operator licensing and permits. **CTAUK therefore must ask the question why in a regulated transport system (such as Northern Ireland) can there not remain both road service licensing and the permit system?**

Community Transport has provided a pivotal role within the community for many years. Transport provided is a reaction to a community need for appropriate access solutions not being met by public or private transport operators. The permit system works well, safely and legally.

DoENI have considered the needs of commercial operators above the needs of the Community. DoENI must take into consideration the consultation responses received from individuals, community groups, community transport operators and other government departments to ensure the impact and community reaction to change is considered. CTAUK recommend a review and reissue of consultation taking better account of evidence and community needs.

DoENI must review how they can modernise the permit system to enable the community transport sector to continue and ensure the future provision of community; not-for-profit transport is included in the DoENI transport strategy.

In achieving a fair and reasonable outcome the DoENI must remain impartial considering only factual evidence in the review in order to remain an 'honest broker'.

EQIA Questions

Q26 — Do you agree with the assumed impacts outlined in this EQIA?	Yes	
	No	✓

Additional comments:

There are several aspects that have not been included in the impact.

Q27 — If no, please can you explain why and provide any evidence which supports that view?	Yes	✓
	No	

Additional comments:

In section 3 there is no mention of the impact these proposals will have on DE/DEL, DHSSPS and DSD.

In point 5 the reference to the financial impact is referred to as a possibility. This is a comment that indicates no attempt has been made by the DoENI to calculate costs created by the preferred proposal.

CTAUK has calculated the impact of change will cost volunteers and the voluntary sector £4.5 million just to pay for the commercialisation of community and volunteer driving licences.

The community sector expects to lose over 50% of volunteers due to the negative impact and barriers created by this proposal – the cost to continue services without volunteer input is calculated in the region of £3 million per year.

The increase to fares resulting from higher operating costs will see many community organisations limiting activity resulting in an increase in isolation and exclusion. The impact in the community will be devastating and take community development back by 30 years.

In point 8 – who are the main stakeholders:

There is no mention of the passenger or of the Consumer Council who have the statutory responsibility to represent the transport consumer’s voice.

Rural and Community transport providers are all community transport; there is no need to make a difference.

In point 9: private operators working under the Operator Licence will profit from the demise of the community transport sector.

In the section entitled Consideration of available data and research DoENI claim during stakeholder discussions the ‘abuse of the permit scheme’ was raised. Having questioned several of the other stakeholder groups it appears only FPT raised this issue yet it is given prominence in the issues. There is and never has been any proof of the abuse of the s10b permit system. CTAUK ask DoENI to publish this evidence and to explain where this evidence was collected.

<i>Q28 — Are there any issues that will impact specifically on Section 75 groups?</i>	Yes	✓
	No	

Additional comments:

The consultation has not fully expressed the impacts of this proposal on Section 75 groups. In order for consultees to answer this question DoE must complete further investigation and convey the impacts.

DoENI mentions cost but does not explain the amount or expected increase to transport costs that will impact each Section 75 group.

<i>Q29 — If there are any such issues, can you explain them and provide evidence that supports that view?</i>	Yes	✓
	No	

Additional comments:

In several areas the DoE states the impacts will have no effect on bus operators, permit holders or bus users. Without defining the impacts created by increased costs and reduction in the provision of Community Transport (created by the loss of volunteers through the introduction of commercial driving licence requirements) the DoE has failed to provide enough information to enable a response.

The proposals will impact on the following section 75 groups:

Religious belief - the impact on church groups’ ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

Racial group - the impact on racial groups’ ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

Age - the impact on age related groups' ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

Marital status - the impact on people who are not married (widows) and lone parents' ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

Sexual orientation - the impact on organisations who support gay/lesbian activities' ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

Gender - the impact on women's/ men's groups' ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

People with dependants - the impact on mother & toddler / father's / grandparents / families with children with disabilities and lone parents' groups and individual's ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

People with a disability - the impact on disability group's ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

Rural communities - the impact on rural community/ rural dwellers/ rural group's ability to access community transport will be reduced due to the need for drivers to obtain a commercial driving licence to drive centrally managed Community Transport vehicles.

RIA Questions

<i>Q30 — Do you agree with the assumptions of the impact of the proposed changes on the various categories of operator?</i>	Yes	
	No	✓

Additional comments:

The DoE partial regulatory impact assessment does not investigate or provide evidence of the increased cost to the end user, community transport operator or to the community in the document.

The partial regulatory impact assessment states its objective is to promote road and personal safety and fair competition. There is no evidence provided to indicate the current permit system does not already achieve this objective.

Q31 — <i>If not, please can you explain why and provide any evidence which supports that view?</i>	Yes	✓
	No	

Additional comments:

The DoENI are critical of the permit system as there appears to be no evidence as to the holders of permits, number of permits and validity of permits issued. This information should be available – Designated Bodies return copies of all permits to Road Licensing Division. The Division is responsible for collation of permit records. Improvements to the permit system will address many of DoENI’s concerns which stem from what appears to be an internal failure to record and maintain an appropriate database. This is not evidence that permit holders are acting illegally or outside road traffic laws.

In order to comply with the proposals DoENI must investigate the financial impact of the changes. Costs will include:

- Moving all community transport drivers (paid and volunteers), of organisations whose main purpose is to provide transport to reduce exclusion and isolation, to commercial driving licences.
- CTAUK estimates this will generate £750,000 in test fees for DoENI (based on 3000 drivers). When full consideration of the cost of training is taken into account the cost to the community sector will be in excess of £4.5 million.

CTAUK interviewed a number of volunteer drivers from community organisations whose sole purpose is provision of transport to reduce exclusion and isolation. All have confirmed they will stop volunteering because of the barriers created by these proposals. These barriers include: cost to obtain a commercial licence, the time they will need to take away from work/home commitments to complete this driving licence, they are not providing commercial work and therefore they see no need to be re-trained as commercial drivers in order to drive a community minibus, their objective has been to deliver support within the community not to become commercial drivers and they already are entitled to drive a minibus because they hold a driving licence with a D1 (nfhr) category or under the terms of the UK derogation or can drive as a volunteer under a B category licence (with restrictions).

The proposals create a negative difference between NI drivers and drivers in the rest of the UK. This is likely to cause confusion and concerns amongst community organisations considering visiting NI from GB.

This proposal weakens the community and voluntary sector and therefore will have a negative and detrimental impact on community life in Northern Ireland.

Appendix

- i Option 4 – an outline proposal**
- ii Operating Centre – proposal that will work for community groups**

Appendix i – Option 4, an outline proposal

The CTAUK propose the DoENI consider an Option 4 solution to the Review of Operator licensing. The Community Transport sector is an integral part of the transport network in Northern Ireland. It provides a tangible, successful solution both for the community and for government. It works to ensure rural isolation and social exclusion is addressed through appropriate provision of accessible, community-led solutions. Community Transport is integral and an important part of the successful provision of Health, Education and societal programmes to improve the health and wellbeing of all communities. The Review of Operator Licensing needs to go a lot further than the current proposals put forward. There is opportunity to develop a transport framework that has road safety as a priority but also takes into consideration the Northern Irish transport needs now and for the future.

The CTAUK propose road safety can be improved by ensuring all operators of transport services comply with the relevant operator licence permit regulations. In order to effectively monitor and manage service provision CTAUK propose review of the enforcement system to ensure adequate officers, training and targets are agreed to reduce the number of illegal transport operators in Northern Ireland. CTAUK agree there should be separate licensing/permit arrangements for commercial and non-commercial transport suppliers. Standards should be levelled but must consider the cost implications for not-for-profit, unfunded transport services that operate outside commercial terms.

With respect to the non-commercial community sector CTAUK propose:

- The s10b permit system is retained for use within legislation by all not-for-profit community transport organisations, irrespective of number of vehicles or turnover
- Individual permits are awarded for a period of no more than 5 years
- Application is made using a more detailed application form (in line with GB s19 application)
- Is delivered in partnership between DVA and a limited number of designated bodies (CTAUK propose limiting the number of Designated Bodies; who will have to undertake appropriate training on issuing permits and legislation on permit minibus operations; and who have no vested interest i.e. cannot award permits to themselves).
- Will be monitored by DoENI. DoENI will hold a full database of all s10b permits issued. In order to do so the current S10b certificate will need to be amended to include more details about the permit holder (address, contact details etc.).
- DoENI/DVA and Designated Bodies will work in partnership to ensure appropriate advice, technical support and road safety information is provided to all permit holders

- DoENI/DVA will retain the ability to stop and check all permit vehicles to ensure compliance with permit regulations and road safety
- Permits should incur a fee suitable to meet the full costs incurred by DoENI in administering the scheme. Designated bodies must be permitted to charge administrative fees to cover processing of permits
- Holders of existing S10b permits will be able to continue provision of services for a period of no longer than five years from date of legislation change
- The s10b permit must be extended to include vehicles with less than 9 passenger seats (in line with the review of s19 GB)
- The permit system needs to include a s22 type permit for Northern Ireland. This will enable the community and voluntary sector to apply for and provide route transport for members of the general public where there is no mainstream public transport network
- The permit system enable charities whose transport provision is ancillary to their main objectives operate under the same legislative system and standards as charities whose main aim is community-led transport provision
- The review needs to work within the DSD Volunteering Strategy for Northern Ireland which promotes volunteering and opportunities for volunteering and stops government policy or strategy from creating barriers to volunteering.
- The permit system must accept drivers may be paid to deliver community transport services. The community sector delivers services on a non-commercial and not for profit basis. This does not exclude the use of paid drivers who are employed to meet the needs of a community group when that group / individual is unable to provide a suitable volunteer (disabled person's groups, older people who have never held a driving licence etc.). The misnomer that the community sector must only deliver services using unpaid staff is an incorrect assumption by DoENI and contravenes DSD community and voluntary sector policy.
- Due to a reduction in the ability for government to pay grants to support community led solutions there will be stresses placed on service provision over the next 5 – 10 years. In order to meet future need the Review should allow s10b permit operations (or the resulting permit regime) the ability to tender for contracts to ensure local, community, not-for-profit solutions can be commissioned by government. This will ensure the community and social enterprises are given legal opportunity to continue to meet government requirements in a changing procurement structure.

Appendix ii – Operating centres

The CTAUK propose DoENI consider the needs of the community when discussing Operating centres. In many cases vehicles are parked securely and safely but may not be located in official Operating Centres.

Should the DoENI restrict the movement of vehicles or insist parking is limited to operating centres then the use of community vehicles will be hindered.

For example:

- A church minibus is parked in the church car park. It is off road and is not causing obstruction.
- A community transport operator parks 3 minibuses in a school car park. They are off road and not causing an obstruction. Vehicle movement is restricted to before and after school hours or when classes are being held (no child is in car park).
- A youth group has a minibus but as there is no secure or appropriate off road parking available it is parked at the home of one of the leaders.
- A scout club is using a community minibus to take kids to a campsite where they will stay for 1 night. The vehicle will be parked at the campsite and not in an operating centre.
- Due to an early morning start the community bus is parked at a driver's home in her driveway. The vehicle is off road and in a secure location. The insurance company is aware the vehicle is being parked at a residential address on occasion.

It depends to some extent on the 'inconvenience' that an operating centre causes to neighbouring tenants and residents.

Issues could be start and finish time of service (noise at anti-social times), vehicle washing, on-site vehicle maintenance or employee (paid and volunteer staff) parking. The need for an operating centre is more when there problems are apparent – the more vehicles the greater the disruption.

CTAUK would welcome the opportunity to discuss possible exemptions from Operating Centre provision for community organisations will few vehicles.

CTAUK take seriously the provision of parking and the movement of vehicles in any parking area. By following a risk management regime community transport operators (of all sizes) ensure appropriate lighting, space and restriction of pedestrian access is maintained. Through MIDAS training all reversing and driving in parking areas is monitored. Where children, vulnerable adults or other traffic is present MiDAS recommends the assistance of a qualified guide is used to reduce risk and to ensure all other road users are kept clear from a moving community vehicle.

There is no evidence that the current legislation, which does not require operating centres, causes any inappropriate outcomes that cannot be solved by other existing

road traffic legislation and therefore the CTAUK proposes that the existing arrangement should continue.