

**RESPONSE TO THE
DRIVING STANDARDS AGENCY**

**CERTIFICATES OF PROFESSIONAL
COMPETENCE FOR PROFESSIONAL LORRY
AND BUS DRIVERS**

**PROPOSED ARRANGEMENTS FOR
IMPLEMENTING EUROPEAN UNION
REQUIREMENTS FOR INITIAL QUALIFICATION
AND PERIODIC TRAINING**

8 February 2006

The Community Transport Association

The CTA is the representative body for non-profit passenger transport operators in the UK. CTA Member organisations are involved in the provision of transport, especially accessible services.

The CTA is the UK's largest provider of training, advice and information on accessible, voluntary and community transport provision. The CTA is funded by the Department for Transport, the Scottish Executive, the Welsh Assembly Government and the Department for Regional Development (Northern Ireland).

The CTA exists to support, advise, develop and represent the not-for-profit transport operator, including statutory and other public sector operators. It also seeks to promote standards, best practice and policies throughout the transport industry, which are derived from the experience of its members.

CTA's Response to Consultation

The CTA welcomes the opportunity to contribute to the DSA's consultation process.

The response is in the format requested by the DSA and is shown on the following pages.

Contact Details

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REPLY QUESTIONNAIRE

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If you are replying on behalf of an organisation, please say how many individuals' views are included in the response

The Community Transport Association has approx 1500 directly associated organisations and typically represents the views of between 5,000 and 10,000 operators.

Please also say what steps you have taken to gather those views.

- The CTA publishes a bi-monthly magazine and has requested feedback from its readers
- The Executive Committee of CTA has arranged to discuss this response and the views of everyone involved have been included
- The CTA is funded by the Department for Transport to provide an Advice and Information Service and a number of comments have been gained from this source
- The community transport sector is, by its very nature, responsive to local needs. This results in a very diverse range of services being provided. Notwithstanding this, the operation of minibuses takes place in only a handful of different ways and these are well known and well documented. This is led by the CTA's training packages and web based advice. Consequently, the effect on one operator of any legal measure will be identical for all others.

QUESTIONNAIRE TEMPLATE**Chapter 4 – Scope and Exemptions**

Q – Do you have any views on the proposals in this Chapter? What are your views on penalties for non-compliance and responsibilities for ensuring compliance? Please consider who should be liable where there is a failure to comply.

The CTA welcomes these proposals and in the spirit of the proposal not to over-regulate where there is no proven need, the CTA believes that applying the CPC requirement to professional drivers is the right approach. The Directive clearly states that volunteers are exempted from the new requirements.

Earlier in the consultation process the CTA was given to understand (Mr C Maddock at DSA Nottingham) that D1 (101) licence holders would also be excluded from the CPC requirement on the basis that their licence was not a vocational licence in the true sense of the word.

This outcome was confirmed, but with a different rationale by a statement given to John Smith of GoSkills which reads:

“You will need a CPC if the vehicle you are driving is considered a PCV at the time you are driving it and you are being paid for that driving. Section 19 vehicles are not considered PCV’s when being driven under this Section and therefore the drivers will not need the CPC”.

An enquiry by one of CTA’s member organisations directly to DSA resulted in a different outcome based on yet another part of the Directive’s wording.

Mr R Massey of DSA Nottingham wrote:

“As advised, all those needing a D or C licence to drive commercially will be covered under CPC. This is including subcategories such as D1 and C1. There are a number of exemptions which are shown in the consultation paper. From our reading of this, the exemptions do not include charities or services such as “dial a ride”. In these instances, the driver is paid a wage. This constitutes commercial driving and is therefore included in the Directive. There are certain situations where a driver may be incidental. This is when such driving is not his or her essential area of employment. An example is a school teacher. His or her main area of work is to teach. Therefore driving is incidental to that activity. We do not believe that charity drivers are incidental in the situations you have described. They are paid a wage for driving, not for anything else. Therefore they will fall within the Directive.”

Subsequent conversations between DSA and the CTA have revealed that the crux of the differences in interpretation lies in the Directive – Article 2 paragraph (f). This states that the Directive does not apply to “vehicles used for non-commercial carriage of passengers” This phrase is being interpreted by DSA as meaning that – if the driver is paid a wage, then it must be a commercial operation.

The phrase ‘non-commercial’ was used previously in EU Directives. In 1991 the Second

EU Directive on driver licences also exempted non-commercial services and this resulted in the UK continuing to allow drivers with D1 (101) licences to be paid and drive minibuses up to 16 passenger seats provided by a not-for-profit organisation such as a Local Authority or a registered charity.

European Council Directive 96/26/EC of 29 April 1996, the Directive on the harmonisation of Operator Licensing, uses a similar phrase in the following extract:

“Member States may[] exempt from the application of all or some of the provisions of this Directive undertakings engaged exclusively in certain road passenger transport services for non-commercial purposes [] in so far as their transport operations have only a minor impact on the transport market.”

This was used by the UK to continue to have Section 19 and 22 Minibus permits. It has certainly been confirmed several times that a driver holding a D1 (101) licence may drive a minibus, receive payment for doing so and, providing that the vehicle is operated under a Section 19 permit, collect fares from passengers.

The CTA believes that ‘non-commercial carriage of passengers’ in the EU Directive is correctly interpreted as passenger transport provided by not-for-profit organisations.

The implications of any other interpretation would burden Local Authorities and voluntary sector organisations with additional costs, which will have consequential serious negative implications for council budgets and/or reductions in services.

In fact, most drivers in the community transport sector, including volunteers, already undertake regular refresher training and have done so for over 10 years under the Minibus Driver Awareness Scheme (MiDAS). Although insufficient details are provided in the proposal, it would be hoped that the existing MiDAS training and assessment processes would be comparable with the new requirements to enable most passenger transport drivers in the voluntary and community sector and local authority passenger transport operations to receive periodic training but without the burden of legislation. MiDAS requires drivers to attend about 3 hours classroom based training and a 1 hour on-road driving assessment every four years.

The Directive introduces the concept of an incidental driver. This will particularly complicate the legislation in the community transport sector.

- We already have volunteer minibus drivers who hold various categories of licence including B (and two years experience), D1 (101) holders and full D1 and D licences as a result of a second test – they would all be exempted on the basis of being volunteers. Some D1 or D licence holders will occasionally drive minibuses operated under a PSV Operators licence as a volunteer – the same volunteer exemption must apply as detailed in the Directive. Whatever legislative framework is established, this point must not be lost.
- We have paid staff who are employed as care assistants, teachers, youth workers, ministers of religion, etc. holding either D1 (101) licences or full D1 or D licences driving minibuses, some of which are operated under Section 19 permits, whereas others do not require a permit because there is no payments being made by passengers and therefore no hire and reward taking place. They would

be exempted from the requirement to hold a CPC on the basis that they are incidental drivers. As the consultation document explains, they are not employed as drivers. However because they are paid, the current driver licensing legislation would require them to either hold a D1 (101) or obtain a vocational licence (D or D1). Not needing a CPC could easily be confused with not needing a PCV licence.

- We have paid staff who are employed as drivers who hold D1 (101) licences driving Section 19 permit minibuses (e.g. Dial-a-Ride). We continue to believe that they will be exempted because they are operating on a non-commercial /not-for-profit basis.
- Finally, we have a number of charitable community transport operators that have decided to obtain a full PSV Operators Licence in order to further their objectives. In this case paid staff that are holders of full D1 or D licences will be driving minibuses. They will be included in the requirements of the proposed legislation and will be required to hold a driver's CPC.

With all these permutations, CTA believes that unless a clearer understanding is provided to enforcement agencies (police officers and VOSA officers), complete confusion will result.

On this basis, and on the basis paragraph 4.3 of the DSA proposal it would seem to be necessary to implement a light-touch legislation framework that does not result in drivers who are unaware or confused by the requirements to be summons or become convicted drivers even if that is at the caution level.

It is still understood by the CTA that all drivers who come within the scope of this legislation will be driving for an organisation holding a Traffic Commissioner's 'O' licence and, therefore, ensuring compliance should be administered by the Traffic Commissioners with the threat of withdrawal of the operator's licence being the ultimate penalty. Finding a driver who is driving without a CPC should be an offence of the operator not the driver on the basis that PCV (and LGV) operators are likely to be more knowledgeable about the rules. Any legal sanctions should be reserved for persistent non-compliance

The community transport sector's recent experience of misunderstanding of the existing legislation by VOSA officers and others, leads us to make a strong request that all the exemptions from the CPC requirement are clearly published in a DSA guidance note. There should also be absolute clarity on the definition of non-commercial services.

The CTA would be able to assist in this preparation of such guidance.

Q – Do you agree with the proposal to adopt Option 2 (assessment based) as the route for new drivers to obtain an Initial Qualification?

The CTA is aware that the option chosen by the Government for new driver's initial training is a four-hour theory test (including case studies) plus a two-hour practical test. (Option 2)

The CTA is also aware and supports, the view of the passenger transport industry that this option may have negative consequences. These include:

- The length of the tests could deter potential new entrants to the sector.
- Drivers that are otherwise competent may have difficulty in passing the tests if strenuous efforts are not made to use plain English with helpful and understanding assessors.
- The case studies could pose particularly difficulties for drivers who do not use English as their first language.
- Extended electronic tests could be a barrier to older candidates.
- Experience of the Operator's CPC leads to the conclusion that new drivers will be taught to pass the exam, particularly the case study, using memory techniques rather than any useful training about the job to be undertaken. This will further deter new entrants to the industry.
- If the scheme that is introduced causes high failure rates, or it becomes known that a quota of pass numbers is being operated, this will result in a complete distrust of the new regime by new drivers, existing operators and the general public who could be further disenchanted with public passenger transport service due to shortages of staff.

The CTA would like to see the whole learning and assessment process managed within the industry with DSA holding a watching brief. The CTA would support the involvement of GoSkills and Skills for Logistics in this process.

Q – Do you agree with the proposal to develop tests that could be taken in a modular format that would meet both driving licence acquisition and CPC Initial Qualification purposes?

The CTA agrees with the proposal.

A great deal of correlation exists between the current UK driver licensing system and the CPC requirements and there are few new topics in the CPC. It would seem sensible to include the time taken for the theory and practical test for a vocational driver licence within the total CPC test time requirement.

The remaining time required for CPC examinations could then be completed within the industry as mentioned above.

Chapter 6 – National Vocational Training

Q – Do you agree with the proposal to allow an NVT facility so that drivers undertaking suitable vocational qualifications recognised by QCA or SQA would work whilst preparing for their CPC Initial Qualification?

The CTA agrees with the proposal.

The community transport sector has already established a wide-ranging and appropriate training and assessment routine for drivers. MiDAS (and its accompanying passenger assistance modules in the Passenger Assistants Training Scheme - PATS) would be perfectly adequate for new drivers in our sector. The CTA is working with GoSkills to attempt to harmonise the various training processes to allow MiDAS to equate to a suitable vocational qualification. It is most important that full recognition is given to the needs of operators using small passenger (M2) vehicles for transporting disabled people in any periodic training.

Chapter 7 – Accelerated Initial Training

Q – Do you agree that there would be no benefit in introducing an Accelerated Initial Training scheme alongside the proposed choice of Option 2 (Test only) for the Initial Qualification?

The CTA agrees with the proposal for the reasons stated in the question.

Chapter 8 – Periodic Training

Q – What are your views on the format, content and delivery of Periodic Training?

As stated previously, the CTA has established a wide-ranging and appropriate training and assessment routine for drivers in the community transport sector. MiDAS (and its accompanying passenger assistance modules in PATS) would be perfectly adequate for drivers in our sector. The format of MiDAS requires that drivers undergo refresher training every four years. This refresher training covers any new legislation or best practice changes, refresher training on specific issues indicated by feed back over the proceeding period and an opportunity for all drivers to add feedback to the next refresher round. The format covers driving skills with an on-road assessment; classroom based learning with a multiple choice paper assessment and a practical assessment of passenger care skills. The trainers for MiDAS undergo refresher training every two years using a similar format but including personal training skills development.

The CTA would hope to accredit this training for use in the passenger transport industry under the periodic training requirement. There are currently 1,500 registered trainers and over 60,000 drivers with up-to-date certificates.

Chapter 10 – Regulation of Periodic Training Provision

Q – What are your views on the arrangements that will be needed to support the regulation of Periodic Training? Please consider what criteria should be applied to training providers (i.e. organisations) and individual instructors.

This area can be managed in a light touch way. The Directive allows the DSA to approve training centres and the courses they deliver. It is understood that GoSkills and Skills for Logistics have been asked to look at the mechanisms and content. CTA supports this move. A simple application form needs to be developed to collect relevant

information on centres requesting approved status. This could include questions about general policies, diversity and equal opportunities, health and safety, insurance, booking procedures and the name of a competent person as a DSA/GoSkills/SfL contact (not necessarily the trainer). A second section should deal with each trainer, their qualifications and experience. A third section dealing with the course content should be capable of being completed to show a complete syllabus of the intended course or alternatively a previously approved course content package. Organisations like the CTA could then apply to DSA to gain an approval for a standard package (e.g. MiDAS) to be quoted by all the relevant training centres. Our experience with the refresher training element in MiDAS suggests that the content of periodic training needs to develop and improve over time to avoid unhelpful repetition. As these training packages changed the training provider should be required to gain re-approval from (say) DSA every five years.

The periodic training process also needs to approve trainers. Training skills and knowledge of course content are obvious requirements. However, the CTA would recommend that disability awareness and knowledge of equality and diversity issues are equally important. The CTA would be seeking to gain the approval of the trainer's qualification in the MiDAS system.

The CTA maintains a central record of all training undertaken under the MiDAS system. It is assumed that other parts of the industry will need to replicate this in order to cope with drivers moving from one company to another. This will enable some measure of verification of the successful completion of the training to be achieved when the CPC is applied for.

Chapter 11 – Evidencing CPC Status

Q – Do you agree with the approach (i.e. code on the driving licence) for:
(i) how most drivers within the UK will evidence CPC status?
(ii) drivers would identify they are within an NVT arrangement?
What are your views about recording Periodic Training?

The CTA agrees with the proposal to include a code on the driving licence to indicate the holding of a CPC (Code 95). It seems appropriate to have a similar code for drivers undertaking a NVT course. (Code 195 seems to be free and could make enforcement easier)

Drivers completing periodic training should be given a certificate by approved training centres confirming the training that has been undertaken. Employers (PCV Operators) could be required to store these certificates and then countersign the application for the CPC code to be added to the licence by DVLA. Because this process should result in a new driving licence being issued with an updated CPC expiry date, it may be necessary to adjust renewal dates to avoid too many re-issued licences. The migration of this recording process onto a web based system is an obvious improvement which would make the process easier to manage and remove any delay for drivers returning to a driver's role after their CPC has expired.

If you would like to comment on any other issues relating to the Driver CPC Directive, please do so. It would help us if you could include a reference to the relevant chapter(s) of the consultation document when making your comments.

In the regulatory impact (Annex C) the following question is raised:

Do you agree that further training for LGV and PCV drivers is likely to reduce accident rates and save fuel costs – if yes, by what percentage?

The CTA does not have any quantitative data on reductions in fuel consumptions with improved driving skills. Nevertheless, the aim seems to be worthwhile, feasible and achievable.

The CTA believes that it is important to give a clear message about the intention of the legislation change. In the UK there is no overwhelming case for a series of additional measures, with their associated costs, to address vehicle incidents caused by bad or unsafe driving of PCV or LGV vehicles. Annex C concentrates too much on this aspect of the impact.

The two benefits to the UK of this change should be reduced fuel usage and younger people entering the industries. This is clearly stated in the DSA document - Chapter 2 - Executive Summary at paragraph 2.2.

With regard to the fuel usage, the CTA fully supports any measures likely to bring about positive environmental changes. However it is felt that the Department for Transport should take a number of actions:

- Although logic suggests that driver training should produce fuel savings, it is important to establish that this is indeed being achieved. A research project should be commissioned to confirm the cost benefits are being realised. It will not be the first time that legislation changes have been scrapped when they did not achieve the desired result.
- Many motorcars are now fitted with fuel consumption computers as standard. However few commercial vehicles have this facility. Having such devices on fleet vehicles would provide direct feedback to drivers about their driving style and, particularly in the case of owner drivers, the effect of their driving on their costs. Experiments with instrumented vehicles would prove this point.

The DSA/GoSkills/SfL should recommend that priority be given to periodic training under the Directive that is designed to improve fuel consumption. Skills required for drivers to achieve a reduction in fuel consumption include; optimising gear changes, anticipation of road conditions and the likely actions of other road users. This training should give instant, tangible and measurable outcomes whereas driving 'more safely' cannot be easily measured.