



**Community
Transport
Association**

Response to the Department for Transport

Consultation on

Strengthening Local Delivery – Modernising the traffic commissioner system

Closing Date: 15 October 2007

The Community Transport Association

The CTA is a rapidly growing national 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 is the representative body for third sector 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 part-funded by the Department for Transport, the Scottish Executive, the Welsh Assembly Government and the Department for Regional Development (Northern Ireland).

CTA's Response to Consultation

The CTA welcomes the opportunity to contribute to the Department for Transport's consultation process. After reading through the consultation we have decided to respond on those specific areas that we believe would have a marked effect on our sector.

Contact Details

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Most of the changes proposed in the consultation paper have little effect on the community transport network. However there are a number of detailed comments that the CTA offers on behalf of its members.

General Comments

In the Draft Local Transport Bill the proposal to remove the ability of designated bodies to issue permits is justified on the basis that it will '*simplify the permit issuing system so that, in future, all permits are issued by the traffic commissioners*'. In this consultation paper (paragraph 7 – fifth bullet point) the proposed change is justified by the words '*streamlining the system for issuing permits to community transport providers*'.

It is the strongly held view of our members that removing the designated body network, which has worked satisfactorily since 1985, will neither simplify nor streamline the Section 19 issuing process. In fact, the CTA believes that this proposal will lead to increases in time and cost in securing Section 19 permits and the loss of essential help and support that small, voluntary organisations require.

The permit system was designed as a method of encouraging social and voluntary action in our communities and this means that the majority of Section 19 permits are issued to small organisations that do not have the resources to get legal advice on the various issues surrounding the operation of minibuses in the community. National charities, like the CTA, provide help and support to the people involved in applying for permits and the opportunity to provide this advice is created when a permit application is first made. The total number of Section 19 permits issued per year varies between 3,000 and 5,000. However, the Traffic Commissioners, Local Authorities and Designated Bodies issue about a third each. Between 10% and 15% of all permits are issued by the CTA. However, through our advice line (funded by Government) we provide help and assistance to many organisations seeking Section 19 permits. We provide guidance on legal issues, including giving commonly accepted interpretations of the law where it has never been tested in the courts, training, health & safety, risk management and guidance on operational techniques that ensure legal compliance. We do not believe that the Traffic Commissioners would provide any of this essential support for existing and potential new permit operators.

The CTA believes that the support provided to permit operators from designated bodies is essential in promoting a safe and legal voluntary sector. Removing the right of designated bodies to issue permits will dilute the support they currently give and could lead to reduced standards and, eventually, a reduced service for the many passengers served by permit vehicles. This seems to us to be going against the grain of government policy for the third sector.

In paragraph 64 of the consultation paper an alternative option of delegating the issuing of 'O' licences to VOSA is mentioned. The CTA, as a member organisation has to reflect the views of its members and the possibility of VOSA having any involvement in Permit issuing would be, in our view, detrimental to the permit regime and a healthy voluntary sector. Over the last few years we have seen VOSA officers take up a number of cases that have been raised originally by other 'O' licence holders and claiming that permit vehicles were being operated illegally. Whilst our members can accept that individual Agency officers may not be versed in all aspects of the legislative framework

that applies to permit operations, they would have thought that senior staff within VOSA would have double checked the facts before a court case was opened. The actions of another VOSA officer in Scotland in preventing a CT scheme operating a perfectly legal journey for several days shows to us that the legalities of permit operation have never been fully understood by VOSA.

The CTA, on behalf of its members, would strongly oppose the delegation to VOSA of issuing permits if this were ever to be proposed.

The concerns of the CTA about the removal of the designated body network are partly predicated on the possible escalation in the price of permits. As we state in our response to the draft Local Transport Bill, the CTA would normally support the principle of full cost recovery detailed in paragraphs 67 and 68 of this consultation. However, the CTA believes that the cost of Section 19 permits is currently set below the true cost of the administrative work required. The designated body network has traditionally issued permits at below cost or even free in some cases.

The CTA continues to be concerned that if the Traffic Commissioners become the only source of Section 19 permits and get powers to raise the price of these to reflect the costs involved, there will be an escalation of the price.

More specifically we envisage price increases due:

- ➔ **To the existing cost of permit administration becoming more visible if the issuing is centralised.**
- ➔ **Because little or no advice and support being offered by the Traffic Commissioner to applicants for Section 19 permits will potentially lead to illegal operations requiring an increased involvement of VOSA enforcement officers and the possibility of more pre-issue checks being justified.**
- ➔ **As the fee increases, the possibility of community projects not purchasing permits for low volume work could increase. This could again lead to increased enforcement costs and further fee increases.**

The CTA is aware of media articles suggesting that the Permit system is “out of control” We have totally re-butted the various points made, many of which arise from a lack of understanding of the legal frameworks of permits amongst commercial operators. In fact, over a number of years the comments about permit operators have resulted in investigations instigated by traffic commissioners, VOSA, and the Department.

The following extracts from Traffic Commissioners’ report are relevant:

1994 – Eastern Traffic Commissioner – *“Following several tragic incidents involving minibuses in the latter part of 1993, I asked the Vehicle Inspectorate to look at a sample of permit holders to establish that: permits were applicable for the type of operation; vehicles were properly maintained and the permit holder was aware of responsibilities both in the operation and driving of the permitted vehicle. I am pleased to report that results to date have been satisfactory.”*

1995 – North Eastern Traffic Commissioner – *“There was a significant increase (77%) in the number of small bus permits, with the majority being issued by local authorities. Because of this trend and because vehicles used under permits are not subject to regular maintenance checks by the Vehicle Inspectorate, I asked the Inspectorate to carry out a number of spot checks to show whether permit vehicles are being well-maintained. The results were encouraging. Only 2 out of 20 permit holders checked were less than fully satisfactory suggesting that permit holders are taking their vehicle maintenance responsibilities seriously”.*

1996 – Eastern Traffic Commissioner – *“However, in the main it is to the credit of these non-profit making bodies that the [Vehicle] Inspectorate found that vehicles were maintained to a good standard and that adequate maintenance arrangements were in place”*

2000 – Welsh Traffic Commissioner – *“The enforcement effort targeted to this area demonstrated that there were no obvious maintenance problems with vehicles operating under this system.”*

The CTA believes that, in the light of such well researched and official evidence, any uninformed view that the permit system is ‘out of control’ has to be ignored.

There have been calls from other bodies, including the Traffic Commissioners, for permits to be renewed on a regular basis. The CTA can understand this view, not least because, we believe we are likely to be the only issuing body (including Traffic Commissioners) that has comprehensive records of all permits issued. We also understand that many organisations, including the Department, feel a lack of understanding about the extent of the voluntary and community sector. To this particular end, the CTA is already working with the Department to collect and make details available of community transport operations.

The CTA would oppose renewal of permits for two reasons:

- ➔ **Increased cost to the voluntary sector due to fee for replacement permits**
- ➔ **The potential difficulties in contacting the holders of, almost, 90,000 permits, which could lead to, effectively, illegal operations after the implementation date.**

Consultation Questions

The CTA's reply to the consultation questions is as follows:

- *Do the proposals strike the right balance between local accountability (e.g. through the current regional traffic commissioner structure) and national consistency?*
 - ➔ **We have no evidence that the present structure suffers from inconsistencies and, therefore, we do not wish to comment.**
- *What are your views on the resource implications of the proposed changes?*
 - ➔ **The Transport Select Committee in its recent report on the draft Local Transport Bill acknowledged that the traffic commissioners did not have adequate resources to fulfil their current role and the CTA is aware from its members of a backlog of applications for 'O' licences and, as a consequence, the significant time it takes to secure licences. As such, we do not feel that asking the traffic commissioners to take on additional work, such as the exclusive issue of Section 19 permits, is sensible as this will only result in additional delays or in demands for additional resources and, therefore, increased costs for licence and permit applications.**
- *Should the terms of appointment for future traffic commissioners be fixed?*
 - ➔ (See answer to the question below)
- *Do you think the proposals in this paper give the traffic commissioners a strong enough role in representing passenger interests? If not, what changes would you like to see?*
 - ➔ **We do not think that the proposals in the consultation document set out how the Traffic Commissioners can effectively operate a customer complaint process for the whole of the bus network. If the task of soliciting complaints is undertaken with any degree of success, the Traffic Commissioners will be inundated with information, most of which could not be acted upon because of resource limitations. This could lead to the process falling into disrepute.**
 - ➔ **An alternative option would be to make it a pre-condition for an 'O' licence application, that an internal complaints procedure is in place. The CTA feels that this would motivate transport operators to resolve local complaints more effectively and strengthen the 'customer' status of passengers. The Traffic Commissioners could operate in an 'ombudsman' role concerning themselves with whether the internal complaints process had been followed correctly.**
 - ➔ **In the case of Quality Contract area, the local authority should be required to show how any operators' internal complaints procedure would be integrated with any requirements set out in the contract.**

- *Would limiting the terms of appointment compromise the impartiality of the traffic commissioners?*
 - ➔ **The independence of the Traffic Commissioner to take reasonable decisions without political interference is compromised by this proposal.**
- *What are your views on allowing the traffic commissioners powers to refuse or modify an application to register a service on the grounds that a quality partnership scheme is in operation in the proposed area of the service?*
 - ➔ **The CTA would generally agree with this proposal. However, the role of community transport in supplementing mainstream transport either due to the need for door-to-door transport or because of other social needs must be taken into account when considering new applications. This will become particularly important when Section 22 services are re-structured as proposed in the draft Local Transport Bill.**
- *What are your views on allowing the traffic commissioners powers to refuse or modify an application to register a service on the grounds that such a service may lead to aggressive and excessive on-road competition?*
 - ➔ **Generally, the community transport network would not be in competition with mainstream transport and therefore this proposal is supported. However, a misuse of this power could be envisaged where an incumbent operator could claim that a specialised community transport service attempting to register a partially similar route could cause excessive competition, etc. The CTA would want to make sure that the Traffic Commissioners decisions are made on the basis of evidence collected by independent officials and not on the basis of biased submissions from existing operators**
- *What are your views on the proposal to allow for the operation of additional services in an area where a quality contracts scheme is in place? Do you favour local authorities being granted such a power or should this power be conferred upon the traffic commissioners (subject to the application having the support of the local authority responsible for the scheme)?*
 - ➔ **In the view of the CTA, the Traffic Commissioner should take this decision on the basis of passenger need.**
- *What are your views on the proposal to allow traffic commissioners to allow or refuse dispensations to the 56 day rule in the pre-contract transitional period for a quality contracts scheme in order to protect bus passengers?*
 - ➔ **We do not wish to comment on this point.**
- *Do you agree that separate traffic areas be retained for Scotland and Wales?*
 - ➔ **The CTA supports this proposal**