

**Local Transport Act 2008: Proposals for  
secondary legislation on Community Transport Permits  
*The Government's Response to Consultation***

**Executive Summary**

1. The Local Transport Act 2008 ("LTA 2008") makes a number of amendments to the existing legislation about the community transport permit system. These include deregulatory measures to give the sector more flexibility over the size of vehicles that can be used by community transport operators, and to remove a restriction that currently prevents drivers of community bus services being paid.
2. The Act also paves the way for a gradual transition to time-limited community permits, to enable more effective oversight of the permit system while preserving the advantages of the current arrangements under which certain permits can be issued by local authorities and a number of other "designated bodies".
3. Although the key changes are set out in the LTA 2008, some more detailed provisions also need to be made in Regulations. The Government consulted last year on two sets of draft Regulations; this document provides a summary of the consultation responses and sets out the conclusions the Government has drawn from the consultation.
4. The reforms have been warmly welcomed by the community transport sector and other interested parties. The Government's key conclusions include:
  - that it is right to bring the deregulatory changes into force at the earliest opportunity, while ensuring that designated bodies and others have time to adjust to the changes. The Government is therefore proposing an implementation date of 6<sup>th</sup> April 2009, and will shortly be circulating a leaflet to designated bodies setting out how the changes will affect them;

- that the draft regulations struck a good balance between ensuring passenger safety and taking a proportionate approach to the regulation of the community transport sector. The Government therefore proposes to retain the key features of the draft regulations, including the requirement that drivers of small vehicles (cars) under “section 19” permits should be aged 21 or over, and have a minimum of 2 years experience;
- respondents offered a variety of helpful suggestions as to how the regulations could be improved or clarified. Many of these are being taken forward, either in the regulations themselves or in the revised guidance that will be published a little later in the year. For example, the regulations and guidance will both provide greater clarity about the use of “section 19” services to meet the transport needs of people living in more isolated communities whose transport needs would not otherwise be met.

5. Following implementation of these changes in April 2009, there will be further work to give effect to the remaining changes to the permit system – in particular, to review the existing “designated bodies” arrangements, and to manage the gradual transition to time-limited permits. The Government will be keen to engage the community transport sector, and other interested parties, as it develops its proposals in these two areas.

## Introduction

6. This report summarises the responses to the consultation on draft regulations to support the community transport provisions in the Local Transport Act 2008 ("LTA 2008"), and sets out the Government's response. The original consultation document is available for download at <http://www.dft.gov.uk/consultations/closed/communitytransportpermits/>.

7. The regulations prescribe licensing requirements for drivers of, and conditions of use and procedures applying to, vehicles used under permits granted to community transport groups under section 19 and section 22 of the Transport Act 1985, as amended by sections 57 to 61 of the LTA 2008. The amendments in those sections will allow greater flexibility over vehicle size, and over the payment of drivers of vehicles. They also make provision for the issue of time-limited permits, the phasing out of existing timeless permits, and for the keeping of records of permit issue. The consultation sought views on two sets of draft regulations, and the accompanying impact assessment.

8. The formal consultation was launched on 21<sup>st</sup> July 2008 and closed on 17<sup>th</sup> October 2008. The consultation was circulated amongst a variety of interested parties, and was published on the Department for Transport website. The Department received 61 responses. A breakdown of these responses is as follows:

- **41** responses were received from Local Authorities (including the Association of Transport Coordinating Officers, Passenger Transport Executive Group and the Public Transport Consortium)
- **6** responses were received from other Designated Bodies (i.e. not-for-profit bodies who are authorised to issue section 19 permits, including the Community Transport Association)
- **4** responses were received from other Community Transport Operators (including registered charities)
- **3** responses were received from Bus Operators (including the Confederation of Passenger Transport)
- **7** responses were from other organisations.

## Analysis of responses, and the Government's response

### Conditions to be fulfilled by drivers

**Question 1: Do respondents agree that the driver of a vehicle with fewer than 9 seats used under a section 19 permit –**

- a. should be at least 21 years old and have held a full category B licence for at least 2 years?**
- b. should not be subject to conditions as to medical standards, or be prohibited from receiving payment?**

#### *Age and experience*

9. The majority of respondents supported the above requirements that the Department proposed to impose on drivers of vehicles with fewer than 9 passenger seats under a section 19 permit. These respondents felt that the proposed requirements strike the right balance between safeguarding passenger safety and avoiding excessive burdens or restrictions on the sector. The Community Transport Association, having consulted a number of its members, were amongst these respondents.

10. However, a range of views were provided by a moderate number of respondents disagreeing with the above requirements. Several respondents, including a few local authorities, the Public Transport Consortium, TravelWatch Northwest, Disabled Persons Transport Advisory Committee and Girl Crusaders' Union, felt that there was scope to relax the proposed requirements either by reducing the minimum age, or the two-year experience requirement. In particular, TravelWatch Northwest pointed out that a minimum age requirement of 21 years for drivers of vehicles with fewer than 9 seats used under a section 19 permit would be incommensurate with the minimum age of 18 for drivers of vehicles operating under a category D (full PCV) or category D1 (Minibuses) licence. In addition, East Ayrshire Council commented that although an age requirement should be imposed, a category D1 licence must be held where vehicles exceed the maximum authorised mass (MAM) of 3,500kg. Several local authorities stated that a requirement to have held a category B licence for at least two years is too onerous and would have an adverse effect in cases where drivers gained their driving licence later in life but would then need to wait a further two years to undertake such work in the Community Transport sector.

11. Another contrasting view was that of Transport 21 and Gloucestershire Minibus Scheme, who felt that the safety of passengers was paramount. This respondent suggested that it is necessary to tighten the requirements even further by increasing the minimum age of drivers to at least 23, and preferably 25, or by increasing the two-year experience requirement to four years.

12. A few respondents, including the Association of Transport Coordinating Offices (ATCO) argued that a requirement to carry out driver training such as MiDAS, Pass Plus or similar accredited training courses would be of more relevance than a minimum age requirement, and that a young, newly qualified driver with the right attitude and appropriate training could be much safer than an older, more experienced driver without those attributes. One local authority, namely Halton Borough Council, stated however, that appropriate driver training should be an additional requirement to those already being proposed.

13. A small number of respondents expressed a view that insurance companies are unlikely to be prepared to insure under-21s for the purpose of providing services under section 19 permits.

#### *Medical conditions*

14. Amongst those of the opinion that requirements should be tightened further, several local authorities, the Passenger Transport Executive Group (PTEG), Stagecoach Group and FirstGroup plc. shared the view that drivers of vehicles with fewer than 9 passenger seats should indeed be subject to conditions relating to medical standards in order to ensure the safety of passengers. It was not always clear whether respondents were advocating the same or more stringent medical conditions than those applying to Category B licence-holders generally, although some respondents suggested that standards should be aligned with those required for drivers of a 9-16 seat minibus under a section 19 permit.

15. Some respondents shared the view that drivers aged 70 or above only should be subject to conditions relating to medical standards.

#### *Payment*

16. Although all respondents were in favour of the proposal to permit drivers to receive payment, a small number of them (such as Essex County Council, the Highland Council and the Disabled Persons Transport Advisory Committee (DPTAC)) mentioned that it would be important to monitor robustly the operation of vehicles with fewer than 9 seats used under a section 19 permit in order to ensure that excessive payments to drivers are not made. The concern was to ensure that only genuine non-profit organisations should be eligible, and that taxi licensing regulations are not circumvented.

<p><b>GOVERNMENT RESPONSE:</b> In relation to driver age and experience, the Government recognises that there is a difficult balance to strike between safeguarding passenger safety and providing as much flexibility as reasonably possible for community transport operators. Taking account of the range of views expressed in response to the consultation, and in particular the views of the sector's representative body, the Government concludes that (for drivers of vehicles with fewer than 9 passenger seats):</p>
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- the proposals relating to driver age and experience (21 years and 2 years respectively) strike an appropriate balance;
- no additional medical standards should apply over and above those applying to holders of category B (car) driving licences generally; and
- there should be no statutory prohibition on such drivers being paid, consistent with other section 19 permit vehicle drivers.

The Government does not propose to set out specific training requirements in legislation, as this would be inflexible and could impose disproportionate costs on community transport operators. However, revised guidance will emphasise that community transport operators need to ensure that their drivers have the right skills to transport their passengers safely.

The Government shares the concern expressed by some respondents that commercial or quasi-commercial operators should not be able to circumvent the licensing regimes that apply to profit-making transport operators. It will be important to ensure that permits are issued only to genuine charitable and other non-profit organisations, and this point will be reinforced in the revised guidance. If interested parties have concerns about suspected abuse as the new rules bed in, the Government would encourage them to report those concerns to the Vehicle and Operator Standards Agency.

**Question 2: Do respondents agree that no exception from the normal driver licensing requirements should be made for the drivers of “large buses”?**

17. Almost all respondents who answered the question supported the Department’s view that no exception to the rule that a category D licence must be held by the drivers of vehicles with more than 16 seats. Respondents agreed that this was a worthwhile safety measure and that to drive a vehicle of this size and weight safely, it is necessary to have passed a test in the appropriate category.

18. A couple of respondents, including the Greater Manchester Passenger Transport Executive and Hampshire County Council, expressed concerns over the additional costs that community transport operators would incur as a result of drivers having to attend training to pass category D driving tests. It was felt that such a measure would be prohibitive for small, voluntary organisations with limited income. Hampshire County Council suggested that this could be countered by making an exception to the rule that a category D licence must be held for drivers of vehicles with up to 25 seats.

19. In contrast, a couple of respondents such as Stagecoach Group put forward the view that drivers of “large buses” should hold the Certificate of Professional Competence (CPC) despite there being an exemption from driver CPC requirements for vehicles used for non-commercial carriage of passengers.

**GOVERNMENT RESPONSE:** In view of the strong consensus in the consultation responses, the Government intends to retain the requirement that drivers of large buses (under either section 19 or section 22 permits) should hold a Category D licence.

### Vehicle requirements

**Question 3: We would welcome (a) information as to the extent to which pre-April 1988 minibuses are still used under section 19 or 22 permits, (b) comments as to whether the conditions proposed to be prescribed in the new regulations would provide for the continued use of pre-April 1988 vehicles**

20. Only one respondent, St John Ambulance, was aware of the existence of pre April 1988 minibuses being used under section 19 or 22 permits. The respondent stated that they know of two minibuses that were registered in 1988 and are currently being used under a section 19 permit.

21. All other respondents reported that the existence of pre April 1988 minibuses being used under section 19 or 22 permits is not known but assumed to be minimal and on the decline. Limited knowledge of whether any such vehicles are so used seemed to limit the scope for respondents to comment on whether the conditions that we wish to prescribe in the new regulations would provide for the continued use of pre-April 1988 vehicles. However, a few respondents such as Brighton and Hove City Council, the Highland Council and Waverly Borough Council stated that it was not felt that the conditions would preclude the continued use of such vehicles.

22. Several respondents felt that the use of pre 1988 vehicles operating under section 19 or 22 permits should not be permitted. There were concerns that older vehicles are unlikely to meet current standards of roadworthiness or offer fully accessible features. In particular, Halton Borough Council suggested a maximum threshold in terms of vehicle age to be set on vehicles operating under section 19 or 22 permits with a view to ensuring passenger safety.

**GOVERNMENT RESPONSE:** The consultation responses are consistent with the Government's expectation that there are only a very small number of pre-1988 vehicles still being operated under section 19 or 22 permits. The Government is not attracted to the idea of prescribing a maximum age limit for community transport vehicles: an age limit could force some community transport operators to cut back on valuable services, and a well-maintained, carefully-driven older vehicle may well be safer than a poorly-maintained, carelessly-driven newer one.

In light of the consultation responses, the Government considers that the proposed vehicle standards are appropriate, and are reasonably capable of being met by older vehicles.

**Question 4: Do respondents agree that “large buses” used under section 22 permits should be required to have a Certificate of Initial Fitness, as is already the case for “large buses” under section 19?**

23. This proposal was fully supported by all respondents on the grounds of safety. Respondents agreed that the same standards that apply to public service vehicles (PSVs) under an operator’s licence should be imposed here, and that there should be no exemption from the Certificate of Initial Fitness (CoIF) requirement. Given the added safety benefits of this measure, the CoIF was not considered to be an unnecessary burden on the voluntary sector.

24. In addition, one respondent, Brighton and Hove City Council, stated that it is worth considering whether vehicles operating under a section 19 or 22 permit and in possession of a CoIF should be required to comply with the procedure for “Notifiable Alterations”.

**GOVERNMENT RESPONSE:** Consistent with the strong consensus, the Government considers that large buses should be required to hold a CoIF when operated under section 19 or section 22 permits. No explicit provision is required in the regulations themselves, as the requirements contained in section 6 of the Public Passenger Vehicles Act 1981 will (in the absence of any alternative provision) apply to large buses operated under permits. The usual requirements as to notifiable alterations would also therefore apply.

**Question 5: Do consultees agree with the proposals for the use of large buses under section 22 permits? If not, what alternatives are thought to be more appropriate?**

25. Most respondents agreed with proposals for the use of large buses under section 22 permits. Respondents shared the view that these conditions strike a fair balance between (a) ensuring that permit holders are adequately equipped to maintain all the types of vehicle that they could theoretically use under a section 22 permit and (b) avoiding excessive burdens that require all section 22 permit holders to have facilities sufficient to maintain any type of PSV, given that many permit holders may not wish to use larger vehicles.

26. Although in agreement with these proposals, the Community Transport Association and the Campaign for Better Transport sought reassurance that conditions on vehicle size would be applied only because of an operator’s failure to have appropriate maintenance facilities or arrangements in place, and not (for example) because of concerns that section 22 permit holders might compete with commercial operators.

27. A couple of respondents including the Isle of Anglesey County Council and West Lothian Council were of the opinion that a cap should be placed on the number of seats per vehicle.

28. Two local authorities, the Borough of Macclesfield and Cheshire County Council, stated that vehicles used under a section 22 permit should be required to display the name of the operator, as is required for vehicles operating under a PSV Operator's Licence.

29. Another comment in response to this question related to the powers of the traffic commissioners. Buchan Dial-a-Community Bus felt that staff at the Office of the Traffic Commissioner should receive appropriate training to ensure that they are well equipped to deal with the community transport sector. The respondent stated that at present, the traffic commissioners are well placed to deal with commercial operators but that they would require more training to enable them to deal with voluntary groups who may need more help and advice than the commercial operator.

30. Finally, the Confederation of Passenger Transport commented that the Secretary of State should issue statutory guidance to the Senior Traffic Commissioner. This guidance should outline the manner in which traffic commissioners are to ensure that permit holders are placed under the same conditions that apply to licensed, commercial operators given that, in effect, permit holders will be competing with the licensed sector.

**GOVERNMENT RESPONSE:** In view of the consultation responses, the Government intends to retain the proposal that section 22 permits should entitle the holder to operate large buses only where the traffic commissioner is satisfied that appropriate arrangements are in place for vehicle maintenance. The Government favours this flexible approach, rather than imposing a new upper limit on seating capacity for all vehicles used under section 22 permits: it enables individual cases to be considered on their own merits. It is intended that conditions restricting the use of large buses should be applied specifically on safety grounds, and not for other reasons.

Vehicles used to operate local services under a section 22 permit are already required to display a disc in the vehicle windscreen, which (among other things) must identify the holder of the permit under which the vehicle is being used.

It is intended that the Vehicle and Operator Services Agency (VOSA) will take over full responsibility for the operation of the permit system with effect from April 2009, whereas some aspects of its operation currently sit within the Department for Transport. This will provide a single contact point for community transport operators and designated bodies, and staff with appropriate expertise to respond to their queries. VOSA will also be issuing a revised version of guidance document PSV385, which relates to the community transport permit systems, which should also help to answer many common queries.

The Government does not consider that it would be proportionate to require the community transport sector to meet all of the same requirements as commercial operators, given the Government's commitment to supporting the development of the third sector generally.

## Permits and discs

<b>Question 6: We would welcome comments on whether any other changes or additions to the existing passenger classes under section 19 permits would be useful</b>
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31. Several respondents including a few local authorities,<sup>1</sup> Powys Association of Voluntary Organisations, and St John Ambulance stated that no changes were needed to the existing passenger classes under section 19 permits. These respondents felt that the existing passenger classes are sufficient and that the catch-all “other” category (i.e. class E) already allows for the inclusion of persons who do not fall within the first four classes. One respondent added however, that if there are to be additions to the existing passenger classes, it would be necessary to exercise caution in order that the categories do not become too general making it difficult to ascertain whether or not members of the general public are being transported.

32. One respondent, Greater Manchester Passenger Transport Executive, was of the opinion that all passenger classes under should be removed so that vehicles used under section 19 permits can be made available to the general public. It was felt that by allowing the general public access to section 19 services, this would assist in tackling social exclusion and allow residents to reach the jobs and, educational and health services that are inaccessible to them by conventional bus services. The respondent went on to add that so long as the stipulation that those applying for a section 19 permit are non-profit making organisations is retained, this would minimise the risk of a conflict of interests with commercial operators.

33. A substantial number of respondents saw merit in adding to the current passenger classes under section 19 permits. Additional classes suggested were as follows:

- **Persons socially excluded or geographically/rurally isolated** - many respondents such as the Community Transport Association (CTA), the Association of Transport Coordinating Officers (ATCO), the Passenger Transport Executive Group (PTEG), local authorities and community transport operators shared the view that an additional category is necessary for persons whose travel and social needs are not met due to a lack of their own personal transport and/or conventional bus services (in rurally isolated areas, in particular). It was felt that the insertion of this new category would widen the scope to meet the travel and social needs of people to whom these would otherwise be denied, and thereby provide accessible and affordable transport to achieve social inclusion. One particular area of social deprivation which a new passenger class of this kind would help address is the transportation of previously unemployed people to work. A couple of respondents commented that under the current passenger

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<sup>1</sup> Aberdeenshire Council, East Sussex County Council, Isle of Anglesey County Council, Plymouth City Council and South Lanarkshire Council.

classes, community transport organisations have been restricted in their efforts to run services for people trying to reach jobs. For example, the CTA mentioned that a number of “Wheels to Work” schemes have been set up by community transport organisations to transport previously unemployed people to work by mopeds. However, community transport organisations have been prevented from providing such services by way of section 19 services.

Furthermore, one respondent, namely, the Highland Council, put forward the idea of adopting the classes of persons listed in the Bus Service Operators Grant regulations as a means of including socially deprived persons in the current passenger classes under section 19 permits.

- **Children on home to school transport** – a couple of respondents listed this category as a beneficial addition to the existing passenger classes under section 19 permits.
- **Members who need to keep their identity hidden** – one respondent, Cambridgeshire County Council, stated that a “specialist” passenger class would be of value for persons who need to maintain anonymity, for example, members of women’s refuge charities.
- **Older people** – one respondent, namely, Perth and Kinross Council felt that this category would be a desirable addition to the existing passenger classes under section 19 permits.

34. Although not directly related to the issue of existing passenger classes under section 19 permits, it is worth mentioning that Lancashire County Council commented that “Recreation” should be added to the list outlining the type of bodies that can apply for a large bus permit. Currently, it is only bodies concerned with “education, religion, social welfare and other activities of benefit to the community” that can apply for a large bus permit.

**GOVERNMENT RESPONSE:** In general, the Government considers that the catch-all “category E” in the existing Regulations provides the necessary scope for community transport operators to provide services for groups of people such as those suggested by respondents to the consultation. This point will be reinforced in the revised version of the guidance document PSV385.

However, it was clear from the consultation responses that there is particular uncertainty about whether services can be provided under section 19 permits for the benefit of persons living in more remote communities who do not have access to other suitable forms of transport. The concern is that such services might violate the requirement that section 19 services may not be used to provide services for the general public. Although the Department issued a guidance note in 2003 regarding the use of section 19 permits to serve isolated communities, this uncertainty appears to have persisted.

Accordingly, to provide greater clarity, the Government proposes to add an additional class to the list of categories of persons who may be specified on a section 19 permit. The precise wording of this category will need to be considered carefully, but the intention will be for this new category to encompass persons living within a particular local community (or group of such communities) whose public transport needs are not met other than by the community transport operator's services.

The types of bodies to whom large bus permits may be issued is set out in primary legislation, and the statutory powers do not exist to amend those provisions through the proposed Regulations.

### **Transition to time-limited permits**

**Question 7: We welcome views on whether it is practicable for the issue of time-limited permits and discs to commence on 1st January 2009. Views from the Designated Bodies are particularly welcomed.**

35. The responses to this question were more or less evenly split. Almost half of the respondents who answered the question were of the opinion that it would have been practicable for the issue of time-limited permits and discs to commence on 1st January 2009, whilst most of the other half of respondents felt that the issue of time-limited permits and discs should commence on 1st April 2009. Both halves of respondents mainly consisted of local authorities and community transport operators.

36. Those sharing the view that the issue of time-limited permits and discs should commence on 1st April 2009 emphasised the fact that setting a date any sooner than this would be problematic due to the main practical constraints of printing and distribution of new permits and discs, and the setting up of any necessary administrative procedures.

37. In addition, two respondents felt that it would be more practicable for the issue of time-limited permits and discs to commence on a date even later than 1<sup>st</sup> April 2009. North Yorkshire County Council stated that 6 months from royal assent would be a sensible commencement date for time-limited permits and discs to be issued; Similarly, Devon County Council put forward 1<sup>st</sup> June 2009 as a realistic date for this.

**GOVERNMENT RESPONSE:** In the event, the LTA 2008 received Royal Assent only in November 2008. Accordingly, the proposal to bring the reforms into force from the start of 2009 was no longer feasible. The Government therefore intends that the proposed Regulations should be brought into force from 6<sup>th</sup> April 2009, to coincide with the coming into force of the relevant provisions in the Act. This will enable the deregulatory reforms to take effect as soon as reasonably practicable, allowing a reasonable lead-in time for those who will be most affected by the changes.

There will be no immediate impact on holders of existing permits (other than that existing “small bus” section 19 permits will, from 6<sup>th</sup> April, be able to operate vehicles with fewer than 9 passenger seats under those permits, subject to certain conditions). The greater impact will fall on the designated bodies (i.e. the local authorities and other bodies who are entitled to issue section 19 permits to community transport operators), as they will need to begin issuing new-style (time-limited) permits and discs with effect from that date.

The Vehicle and Operator Standards Agency (VOSA) will shortly be issuing a guidance leaflet to the designated bodies, explaining how the changes will affect them and the holders of permits and discs issued by them, what they need to do next, and whom to contact if they need further help or advice. VOSA will also be supplying new-style permits and discs to the designated bodies ahead of the 6<sup>th</sup> April implementation date.

**Question 8: Users of permits and Designated Bodies are invited to give brief preliminary views on the timetable for replacing timeless permits, though as noted earlier this will be a matter for future regulations on which there will be separate consultation in due course.**

38. There was a wide range of views on the appropriate timescale for revoking and replacing the existing non-time-limited permits. A large number of respondents including local authorities and community transport operators expressed a preference for a lead-in time of two to three years.

39. However, some respondents were in favour of a shorter transitional period. Two respondents, namely, the Community Transport Association and Essex County Council stated that it would be possible for them to begin the revocation and replacement of the existing non-time-limited permits at any date from 1st January 2009 onwards as all their records of issued permits are intact. Several respondents stated that a timeframe of one to two years would be sensible to effect this change whilst others including the Association of Transport Coordinating Officers (ATCO), Nottinghamshire County Council and Devon County Council put forward the view that a period of six months (from the date that legislation comes into force) is sufficient to replace existing permits.

40. A couple of respondents including Buckinghamshire County Council and Buchan Dial-a-Community Bus were conscious of the logistical challenge in completing this exercise and were therefore of the opinion that five years would be a fair timeframe for phasing out and replacing the current timeless permits.

41. Finally, although not directly related to the issue of a suitable timetable for replacing timeless permits, it is worth reporting that one respondent, Transport 21 and Gloucestershire Minibus Scheme, were strongly opposed to the proposal to replace the current timeless permits with time limited permits. It was felt that this exercise is a cost-raising strategy and that “vehicle specific” permit discs should be introduced instead.

**GOVERNMENT RESPONSE:** The Government is pleased that the vast majority of respondents appeared to recognise the case for moving towards a system of time-limited permits, notwithstanding the modest costs that this will involve. The Government will endeavour to keep those costs to the minimum necessary.

The Government also notes the range of views about a suitable lead-in time for phasing out existing “timeless” permits, and will reflect further on these before developing more detailed proposals for consultation. It will, however, be important to establish a timescale that is sufficient to allow all permit-holders to adjust to the new arrangements – not just those who are equipped to respond quickly to change.

The Government takes the view that, for practical reasons, where a permit or disc issued before 6<sup>th</sup> April 2009 is lost or destroyed, the holder should be issued with a new time limited permit rather than, as now, a copy of the old one. This will save designated bodies from having to hold two types of permit – new style ones for new applicants and old style ones to be issued as copies of existing ones. The Government is considering how this might be reflected in the Regulations.

### **Permits granted under earlier legislation**

**Question 9: We would be interested to know if any permits granted (under the Minibus Act 1977 or section 42 of the Public Passenger Vehicles Act 1981) prior to the 1987 regulations are still in use**

42. All respondents who responded to this question said that they were unaware of the existence of any permits granted prior to the 1987 regulations. As was the case with question 3 of the consultation, it was evident that respondents had limited knowledge or were uncertain of whether any such vehicles are still in use.

**GOVERNMENT RESPONSE:** It appears from the consultation responses that very few, if any, permits granted under the 1977 or 1981 Acts remain in use. Nevertheless, there would seem to be no harm in including transitional provisions in the Regulations to ensure that any holders of such permits are not adversely affected.

## Other matters

### **Question 10: We would welcome any further suggestions from consultees as to matters for which regulation might be needed.**

43. There was a wide range of suggestions from respondents on matters for which regulation might be needed:

- **Inclusion of organisations operating under section 22 permits in local bus tendering agreements** – a few respondents such as the Community Transport Association (CTA) and a couple of local authorities felt that clarification was needed on whether it is permissible for organisations operating under section 22 permits to be included on the list of tenders for contracted local bus services. Such clarification would be welcome as it is becoming increasingly difficult to sustain lightly-used rural bus services provided by commercial operators. As such, community transport services offer a vital lifeline in meeting the travel and social needs of people to whom these would otherwise be denied. It is with this in mind, respondents went on to add, that it should be made clear whether organisations operating under section 22 permits can be included in the local bus service tendering process.

**GOVERNMENT RESPONSE:** It is for local authorities themselves to determine the criteria against which tenders for the operation of subsidised local bus services should be assessed. There is no statutory bar to local authorities including section 22 permit holders within the scope of such tendering exercises, and the Government would encourage local authorities to consider whether it is appropriate – given their particular local circumstances – to accept tenders from section 22 permit holders. This point will be clarified in the revised guidance.

- **Operation of section 19 services on local authority contract work** - a small number of respondents including the Community Transport Association (CTA), Edinburgh Community Transport Operators Group (ECTOG) and a couple of local authorities asked for clarification on whether section 19 services can be used on local authority contract work on a non-profit making basis.

**GOVERNMENT RESPONSE:** As above.

- **Designated Bodies** – several respondents, namely, the Community Transport Association (CTA), the Public Transport Consortium and a few local authorities stated that there should be a review of the existing Designated Bodies. In particular, the Highland Council stated that the number of Designated Bodies should be reduced to ensure effective quality control of the manner in which permits and discs are issued. Furthermore, Isle of Anglesey County Council said that an up-to-date

database of Designated Bodies that is publicly accessible would be of benefit.

**GOVERNMENT RESPONSE:** The Government has already stated its intention to conduct a review of the Designated Bodies system. However, higher priority has been given to implementing the deregulatory measures relating to vehicle size and payment of drivers, as these measures have been most strongly welcomed by the community transport sector. It is intended to progress the Designated Bodies review later this year, working with the Community Transport Association and others. In the meantime, the Government would welcome further views from interested parties as to what the scope and objectives for that review should be.

- **Application process for permits** – a couple of respondents such as the Passenger Transport Executive Group and FirstGroup plc shared the view that the traffic commissioners should be the sole issuer of all permits. Respondents felt that this would ensure more effective control and greater consistency of approach, not least on the subject of fees, which is to be prescribed for permits issued by the traffic commissioners only, leaving the Designated Bodies to set their own fees.

Speaking more generally on the issue of consistency of approach amongst the different bodies of permit issuers, a couple of local authorities requested that the application process be standardised and made more robust. In particular, Perth and Kinross Council put forward the idea that local authorities should not be limited in the types of organisations to which they may issue permits. The respondent added that the current system which includes various bodies of permit issuers (i.e. traffic commissioners, local authorities and Designated Bodies) with differing levels of power is not well understood. This leads to applications being submitted to the local authority who then have to instruct the applicant to submit their application to the traffic commissioner instead.

The Public Transport Consortium and Halton Borough Council commented that the traffic commissioner should carry out frequent reviews of new permit applications (and regular follow-ups) to ensure greater quality control.

In addition, Aberdeenshire Council, stated that the application form or attached guidance notes should make clear the responsibilities of the applicant, for example in relation to the grounds on which the permit can be used, vehicle maintenance, insurance etc.

**GOVERNMENT RESPONSE:** Many of these points are set out in the primary legislation, and there are no statutory powers for secondary legislation to amend the relevant provisions. The draft Local Transport Bill, published in May 2007, included proposals to repeal the existing powers for designated bodies to issue section 19 permits. However, the public consultation revealed significant opposition to those proposals, and so the Government decided to retain the existing statutory arrangements for designated bodies. As noted above, however, it is proposed to review the operation of these arrangements later in the year.

The Government does, however, acknowledge the need for an appropriate degree of quality control in respect of permits issued both by the traffic commissioners and by designated bodies. It is intended that the revised guidance will emphasise the responsibilities involved in being a designated body or a community transport operator, and VOSA will be working closely with designated bodies to strengthen central record-keeping and oversight of the permit system.

- **Guidance on type and structure of groups that can be issued with a section 19 permit** – a few respondents including the Community Transport Association (CTA), the Association of Transport Coordinating Officers (ATCO) and a small number of local authorities felt that there should be a review of which types of body may be issued with section 19 permits. Respondents went on to explain that the types of body that may be issued with section 19 permits should include registered charities, Community Interest Companies (CICs) and other constituted bodies who can show that they are set up to meet a genuine community need and are not-for-profit.

Respondents raised concerns that individuals could set up perfectly valid organisations purporting to be charitable but effectively operate to provide employment and profit for the organisers. They stated that it would be important to prevent this by properly vetting applications in order to avoid conflict with taxi and private hire operators.

**GOVERNMENT RESPONSE:** The primary legislation is clear that eligibility for section 19 or section 22 permits is dependent on the applicant operating neither with a view to profit, nor (in the case of section 19 permits) incidentally to an activity which is carried on with a view to profit. This, rather than the legal structure of a body, is the relevant factor in determining eligibility for a permit.

The Government will consider whether further clarity can be provided in the revised guidance.

- **Operation of a vehicle on section 19 permit and section 22 permit at different times** – a couple of respondents including the Association of Transport Coordinating Officers (ATCO) and Devon County Council requested that it be made clear in guidance whether a vehicle can operate on both a section 19 and section 22 permit at different times.

**GOVERNMENT RESPONSE:** The Government does not consider that there is any statutory bar on a single vehicle being operated under both types of permit at different times – though a vehicle must be operated under one permit or the other at any specific moment in time. This point can be covered in the revised guidance.

- **Protection against penalties for misuse of permits** – one local authority, namely, Bath & North East Somerset Council, said that protection is required for Designated Bodies that issue permits against action taken by the Vehicle and Operator Services Agency (VOSA) as a result of permit holder misusing a permit.

**GOVERNMENT RESPONSE:** Designated bodies need to take a responsible approach to granting permits, and should satisfy themselves that applicants for permits are suitable. Where VOSA enforcement officers find evidence of misuse, the matter will be investigated, and any subsequent action will depend on the circumstances of the case. If designated bodies are in doubt as to whether a particular applicant is eligible for a permit, they should contact VOSA for further advice.

- **Design of discs** – a couple of respondents commented on the discs that are to be newly designed. Respondents stated that it would be necessary to ensure that the new permits are not as susceptible to fade as the present ones. Furthermore, a system to replace lost or faded discs without having to reapply for permit would be a valuable improvement to the system, as would a capability for them to be completed by computer, it was felt. One respondent put forward ideas on the colour coding of discs in order to make matters easier for inspections carried out by the Vehicle and Operator Services Agency (VOSA).

**GOVERNMENT RESPONSE:** These points will be considered as the new permit designs are finalised.

- **Definition of ‘large bus’ and ‘small bus’** – Buckinghamshire County Council felt that there needs to be clearer definitions of ‘large bus’ and ‘small bus’.

**GOVERNMENT RESPONSE:** In relation to section 19 permits, these terms are defined in the primary legislation, and those definitions will be spelt out clearly in the revised guidance. In relation to section 22 permits, the terms are defined in the draft regulations.

- **Drivers’ hours regulations** – a few respondents including FirstGroup plc, Stagecoach Group PLC and a couple of local authorities stated that whilst the full extent of drivers’ hours regulations may not be relevant to community transport services, drivers of section 19 and 22 services should be subject to drivers’ hours conditions on the grounds of safety.
- **Vehicle maintenance** – a few respondents such as FirstGroup plc and a couple of local authorities felt that it would be necessary to introduce minimum requirements and guidance relating to vehicle maintenance so as to ensure better standards of safety in the community transport sector. In particular, FirstGroup plc had strong views on this matter and stated that the Vehicle and Operator Services Agency (VOSA) should be responsible for monitoring the maintenance of vehicles used under section 19 and 22 permits. The respondent went on to add that VOSA should carry out such supervision to the same extent as they do for vehicles used under a Passenger Carrying Vehicle (PCV) Operator License.

**GOVERNMENT RESPONSE:** As noted in response to question 5, the Government does not consider that it would be proportionate to require the community transport sector to meet all of the same requirements as commercial operators. The revised guidance will, however, provide an opportunity to disseminate best practice advice to community transport operators in relation to matters such as drivers’ hours regulations and vehicle maintenance arrangements.

**Question 11: We would also welcome any further data or evidence that would inform the analysis in the accompanying impact assessment.**

44. Very few comments were received in response to this question as the majority of respondents left the question unanswered. Two respondents, namely, the Public Transport Consortium and Halton Borough Council, highlighted the fact that certain local authorities have been operating their own ‘in house’ passenger transport vehicles under section 19 permits which has enabled them to claim Bus Service Operators Grant (BSOG) to help cover some of the operating costs. As such, this could be recognised in the accompanying impact assessment, as a potential further cost to the Government.

45. The Greater Manchester Passenger Transport Authority (GMPTA) provided figures which highlighted the important role that the community transport sector plays in operating services that cannot be provided by conventional bus services. For example, in 2007/08, over 200,000 passenger trips were carried out, of which 60% were operated under section 19 permits. GMPTA stated that this trend continues to grow and believe that the changes proposed to the regulations relating to community transport services will enable better, safer and more flexible passenger transport for the local community. They went on to add that there are currently no services in Greater Manchester operating under Section 22 permits but that if the legislation was to change, they are of the opinion that there would be.

**GOVERNMENT RESPONSE:** A final version of the impact assessment will be published when the Regulations are made.

### **Additional comments**

46. All respondents were supportive of further development of the community transport sector through the Department's proposals to remove unnecessary restrictions in the regulatory regime. Another comment that came to light in the responses related to an awareness campaign on the changes to the regulations on community transport. Several respondents such as the Community Transport Association (CTA) and a number of local authorities were in favour of an awareness campaign in order to explain the changes to the regulations supporting the community transport provisions in the LTA 2008 to existing and potential new groups. In particular, these respondents supported the need to carry out a publicity campaign that would ensure that all relevant parties are aware of the changes in relation to permits (i.e. the phasing out of existing timeless permits).

**GOVERNMENT RESPONSE:** The Government is grateful to all who took the trouble to respond to this consultation. As noted in responses to earlier questions, the Vehicle and Operator Services Agency will be circulating a leaflet to designated bodies shortly, explaining how the changes will affect them. A revised version of VOSA's more general guidance will also be published in due course, and the Government will work with the Community Transport Association and others to raise awareness of the changes and to ensure that guidance and best practice are disseminated as widely as possible.

The Government recognises that it will be particularly important to raise awareness of the phasing out of existing timeless permits. It is intended that this phasing out will take place gradually over an extended period, and further secondary legislation will be required. There will be further consultation on this issue, as well as separate guidance and awareness-raising work, in due course.

## List of Respondents

- Aberdeenshire Community Transport Forum
- Aberdeenshire Council
- Age Concern Horsham District
- Association of Transport Coordinating Officers (ATCO)
- Bath & North East Somerset Council
- Brighton and Hove City Council
- Buchan Dial-a-Community Bus
- Buckinghamshire County Council
- Cambridgeshire County Council
- Campaign for Better Transport
- Cheshire County Council
- City of Edinburgh Council
- Confederation of Passenger Transport (CPT)
- Community Transport Association (CTA)
- Devon County Council
- [Disabled Persons Transport Advisory Committee](#) (DPTAC)
- Driver and Vehicle Licensing Agency (DVLA)
- East Ayrshire Council Roads Division
- East Sussex County Council
- Edinburgh Community Transport Operators Group (ECTO)
- Essex County Council
- FirstGroup plc
- Girl Crusaders' Union
- Greater Manchester Passenger Transport Authority
- Halton Borough Council
- Hampshire County Council
- Harborough District Council
- Hay & District Dial-a-Ride
- Highland Council
- Isle of Anglesey County Council
- Lancashire County Council
- London Borough of Bexley
- Macclesfield Borough Council
- Mendip Community Transport - Somerset
- North Wiltshire District Council
- North Yorkshire County Council
- Northampton Borough Council
- Northumberland Community Transport Operators Forum
- Northumberland County Council
- Nottinghamshire County Council
- Office of the Traffic Commissioner
- Perth and Kinross Council
- Plymouth City Council
- Powys Association of Voluntary Organisations
- Powys County Council

- Passenger Transport Executive Group
- Public Transport Consortium
- Rochdale Metropolitan Borough Council
- Royal Borough of Windsor and Maidenhead
- South Gloucestershire Council
- South Lanarkshire Council
- St John Ambulance
- Stagecoach Group PLC
- Telford and Wrekin Council
- Transport 21 & Gloucestershire Minibus Scheme
- TravelWatch NorthWest
- Vehicle and Operator Services Agency
- Walsall Council - Fleet Services Social Care Transport
- Waverley Borough Council
- West Lothian Council
- West Midlands Metropolitan Authorities' Chief Engineers & Planning Officers Group