

# Rural Services APPG

## All-Party Parliamentary Group on Rural Services

24<sup>th</sup> April 2018 at 2.30pm

Room C1, 1 Parliament Street

### COMMUNITY TRANSPORT

The purpose of the meeting was to consider a response from the APPG to the Department for Transport's Consultation on "the use of Section 19 and Section 22 permits for road passenger transport in Great Britain" which closes on 4<sup>th</sup> May, 2018. The consultation document can be found at: [www.gov.uk/government/consultations/section-19-and-22-permits-how-to-apply-eu-regulation-10712009](http://www.gov.uk/government/consultations/section-19-and-22-permits-how-to-apply-eu-regulation-10712009). The consultation had taken place after a Judicial Review decision that questioned the legality of the present position where Community Transport Organisations had been bidding for commercial contracts – a process that was not in line with current European legislation which was applicable to the United Kingdom. The Community Transport organisations were of course concerned that if the position altered radically their own operation may in some instances be undermined.

#### PRESENT

Rebecca Pow MP Co- Chair

Philip Dunne MP Co-Chair

Jesse Norman MP Transport Minister

Lord Cameron of Dillington

Peter Aldous MP (Waveney)

Akwasi Mensah DFT

Benjamin Collins DFT

Anna Whitty MBE Mobility Matters, England Community Transport

Cllr Ian Sayes, Ribble Valley Borough Council

James Holden County Council Network

Jessica Parsons DEFRA

Holly Bragg - Office of Ruth George MP

Josh Boughton - Office of Philip Dunne MP

Joe Coombs - Office of Nick Herbert MP

Niamh Foley - Office of Ruth George MP

Jamie Goldsmith - Office of Scott Mann MP

Emma Heywood - Office of Anne Marie Morris MP

Florence Hewett - Office of Ruth George MP

James Dermott Hill - Office of Peter Aldous MP

Yasmin Kalhori - Office of Geoffrey Cox MP

Niki Pereira - Office of Anne Marie Trevelyan MP

## **External Speakers**

Donna Atkinson, CEO/Manager, The Little Green Bus Company (Ribble Valley)  
Cllr Simon Spencer, Derbyshire County Council

## **In attendance**

Graham Biggs MBE (RSN), David Inman, (RSN)

## **Apologies**

Rt Hon Richard Benyon MP (Newbury)  
Maria Caulfield MP (Lewes)  
Sir Christopher Chope OBE MP (Christchurch)  
Simon Clarke MP (Middlesbrough South & East Cleveland)  
Geoffrey Cox QC MP (Torrige and West Devon)  
Dr David Drew MP (Stroud)  
Rt Hon Eleanor Laing MP (Epping Forest)  
Ian Liddell-Grainger MP (Bridgwater & West Somerset)  
Scott Mann MP (North Cornwall)  
Neil Parish MP (Tiverton & Honiton)  
Angela Smith MP (Penistone & Stocksbridge)  
Anne-Marie Trevelyan MP (Berwick-upon-Tweed)  
The Rt Rev. the Lord Bishop of St Albans (House of Lords)  
Baroness Byford (House of Lords)  
Lord Crathorne  
Rachel Boulderstone (Defra)  
Cllr Cecilia Motley (Shropshire Council)

Presentations were made to the APPG by the Minister, Jesse Norman (who also answered questions), by Donna Atkinson on behalf of The Little Green Bus Company - ***please click on the link below:***

[http://rsnonline.org.uk/images/APPG/minutes/24-04-8/A\\_Little\\_Green\\_Bus\\_CT\\_services\\_i.pdf](http://rsnonline.org.uk/images/APPG/minutes/24-04-8/A_Little_Green_Bus_CT_services_i.pdf)

and Cllr Simon Spencer on behalf of the County Council Network and Derbyshire County Council. The Co-Chairs thanked them for their input.

The meeting decided that it would leave the Co- Chairs to try to establish a representation in the form of a suggestion to the Department of Transport that respected the legal position but did as much as possible to protect the interest of the Community Transport Groups operating throughout England.

The final submission to the Minister on behalf of the APPG is attached to these minutes. (Please see below.)

# Rural Services APPG

**Co-Chairs: Philip Dunne, MP (Ludlow) and Rebecca Pow, MP (Taunton Deane)**

Jesse Norman, MP  
Parliamentary under Secretary of State,  
Department of Transport,  
Great Minster House,  
33, Horseferry Road,  
LONDON,  
SW1P 4DR

Dear Minister,

## **CONSULTATION ON THE USE OF SECTION 19 AND SECTION 22 PERMITS FOR ROAD PASSENGER TRANSPORT IN GREAT BRITAIN.**

We would like to thank you sincerely for finding time in your busy schedule to address the APPG for Rural Services on the above topic on 25<sup>th</sup> April, 2018 and for answering questions.

We welcome both your, and the Government's, clear commitment to supporting the Community Transport Sector and to maintaining the permit system – you clearly recognise the essential role that Community Transport plays across our rural areas. As more and more rural areas are facing significant on-going reductions in bus services due to financial constraints, the need for Community Transport (CT) can only get greater.

As Council funding has become increasingly constrained the importance of CT Operators to the local authorities as Commissioners has increased as they have been able to provide the required services at an acceptable cost. There is, we fear, a distinct possibility that the changes proposed would lead to an increase in the costs of providing those services, due to higher licensing and operating costs, which will place additional financial burdens on local authorities or result in fewer services being provided. The loss of contract income to CTs may result in them having to scale back their other non-contract services and activities to the detriment of rural residents.

However, we recognise that the Government has no choice but to ensure that domestic legislation and guidance is commensurate with EU law.

That said it is clear that very many organisations across the sector feel that the Department's position appears to be that if a CT operator accepts payments, they are 'commercial' unless they can prove otherwise. The implications of this could be that many Permit Operators might consider that they will have to cease some of their activity and lose funds, or that some will need to become PSV Operators or that some

will close down. This would entail considerable costs and disruption with no offsetting productivity or income improvements or additional services. It would be a clear 'lose-lose' situation for both operators and their passengers.

The APPG has received representations from a group called "Mobility Matters" which contends that "The Department has misled itself by not properly interpreting the wording of the EU Regulation. The phrase "non-commercial purposes" applies to the organisations, not just the services they provide. Yet the Department's approach to the first exemption ignores 'purposes' and just examines the services. This interpretation fundamentally and wrongly alters the meaning of the Regulation and does not take proper account of an organisation's charitable objectives. The Department is attempting to use a change in licensing law to sort out a problem of perceived unfair competition. Mobility Matters accepts there are procurement issues to resolve but the correct way to do this is through procurement guidance. Using licensing law for this purpose is doing exactly what the Transport Select Committee asked the Department not to do – "use a sledgehammer to crack a nut".

Mobility Matters also say that the clarification examples the Department provides will prove difficult or impossible to apply in practice and do not clarify the position, and also say that "the Department's suggestions that whether an organisation's 'purposes' are non-commercial or not should be dependent upon decisions by third party commercial operators does not follow general rules of logic. As CTA has stated, this will hand hostile commercial operators a veto over the scope and scale of much community transport operation".

The Rural Services APPG pretends no expertise in these matters and would welcome a response by the Department to the above issues raised by Mobility Matters.

The APPG would press the Department to look very closely at the exemptions (and the wording thereof) to give the CT Sector as much flexibility as possible. We feel there is scope to look at and widen the definition of "cost"- in relation to what is and is not commercial and the definition of "non-commercial" more generally. As you heard from the presenters at the APPG meeting, there are concerns about the "short-distance exemption" the Department is exploring with a radius of 15-20 miles being put forward in the Consultation document – the geography and topography of rural areas means that, in practice, 15 – 20 miles radius is not enough (of course such an exemption would, presumably, be open to commercial operators too).

The CT Sector considers that the Department's proposed Guidelines are not clear enough and, in particular that more examples are given over a wider range of scenarios. Clear, unambiguous, non-statutory guidance would be of considerable benefit, including in respect of such services as Patient Transport and Voluntary Driver Schemes.

The Department should, we feel, advise Local Authorities that it is perfectly legitimate for them to specify the requirement for such things as "door-to-door" services in their tender/commissioning documents where they believe that to be necessary to meet needs.

You will know that the Sector remains very concerned about the impact of the changes. As CT operators are typically constituted as charities, boards of directors have statutory and charitable obligations to ensure that they are continuing to trade as a going concern. Any introduction of new regulations or guidelines needs to be mindful of both short and long-term impact on existing providers which contribute such vital

transport services to isolated and vulnerable people across the country, but especially important in rural areas where alternative providers do not exist.

We would ask that the Department undertakes to monitor closely the impact of the changes during the period when the United Kingdom remains bound by EU law and agrees to consider the issues further, if necessary, as soon as possible after that period. If the Department could set up a help-line for the CT Sector to give help and advice that, we are sure, would be very welcome.

Once the required legislation and the guidance is in place we would ask for the Sector to have a minimum transition period of 12 months before implementation. We would welcome the opportunity, on behalf of the APPG, for on-going dialogue with you before your formal response is published.

Our Secretariat, The Rural Services Network, will be offering to its membership a facility to share best practice on all the issues concerned.

Best wishes

Philip Dunne

Rebecca Pow