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Dear Nusrat

I am taking this opportunity to respond to your consultation on changes to the legislation governing the operation of public passenger vehicles under section 19 and 22 of the Transport Act 1985. As I have stated previously in my letter to Jesse Norman MP, Parliamentary Under Secretary of State for the Department of Transport, dated 2 November 2017, this issue is likely to have consequences for a number of community transport (CT) organisations in Scotland.

The Scottish Government welcomes the comments in the foreword to the consultation that the UK Government is committed to supporting the community transport sector and to maintaining the permit system. I would reiterate our commitment to the sector in Scotland and express the hope that we can work constructively to minimise disruption to those organisations who carry out such valuable work throughout the country.

It is also pleasing to see an acknowledgement in the consultation that the purpose of the sector is not confined to transport but that many community transport operators are effectively providers of social care to some of the most vulnerable members of society.

It is worth stating that the section 19 and 22 permits regime was set up in the Transport Act 1985 and associated guidance as a light touch regulatory and licensing regime for the provision of community transport. In the decades since introduction, the regime has provided an effective framework within which not-for profit organisations can provide community-based local transport services to people in need, often plugging gaps in commercial provision.

CT operators in Scotland raised concerns in response to Stephen Fidler's letter, in advance of the consultation, about their capacity to meet the revised operator and driver requirements which may mean they can no longer provide services. These organisations and their services are greatly valued by their users, who are often vulnerable and otherwise unable to get out from their homes, to access services in the community. This is particularly the case in

remote, rural and island areas of Scotland where communities may be entirely reliant upon community transport, with no alternative providers.

The Scottish Government has received representations from a number of individuals and organisations within the sector expressing their concern at the changes proposed in the consultation. In particular, how community transport organisations are expected to meet the interpretation of the permits regime set out in the consultation and whether the changes proposed will lead to significant alterations in the way in which they have been operating over a number of years.

Although not all community transport organisations in Scotland rely on section 19 and 22 permits to carry out their work, there are a significant number who do. The CTA State of the Sector Report Scotland 2015 stated that over 70% of CT operators in Scotland use section 19 permits, 24% have section 22 permits with only 8% having PSV operator licences. Many operators fear that the changes proposed are likely to lead to much more onerous conditions and may give them reason to consider whether they can still meet their commitments under the new regime.

It is important that community transport operators know where they will stand in regard to the proposals in the consultation. However, many have expressed that the proposals are confusing, too complicated and that further clarity is needed particularly on the “non-commercial” and “short distance exemptions”.

Exemptions

To be regarded as “non-commercial” all of an operator’s services must fall under at least one of the following:

- the service is free of charge
- any charge is substantially less than cost (10% or less)
- where any charge equals or is greater than cost and evidence can be provided that there is no competition from PSV licence holders.

As community transport providers are not for profit organisations and many struggle with funding issues it is difficult to see how they could exist if no charges were made for services or if they were levied at 10% below cost price.

Where a charge is imposed that equals or exceeds cost, permit applicants are required to provide evidence from local authorities confirming that commercial operators have shown no interest in competing for that service or from commercial operators themselves to the effect that they have no intention of bidding for contracts or running competing services. This could have the effect of allowing commercial operators to control the local market by ruling out bids from community transport operators, removing competition and dictating contract prices to local authorities.

The CTA State of the Sector Report Scotland 2015 states that 25% of community transport operators in Scotland rely on service level agreements for more than 50 % of their income, 46% for less than 50% of their income and 29% do not rely on service level agreements. Similarly, 20% rely on contracts for more than 50 % of their income, 46% for less than 50% of their income and 34% do not rely on contracts.

On the matter of the “short distance” exemption, I understand that this is being looked at further and account will be taken of the views provided in consultation responses. The short distance currently suggested is a 15 mile radius. Although this could apply in some urban areas, there is a greater preponderance of community transport organisations in Scotland

that operate in rural and remote areas and will cover much greater distances in their day to day operations.

In these circumstances a 15 mile radius would be meaningless – some rural community transport routes can reach this distance between two or three stops – and would not allow a number of operators to be regarded as “non-commercial”. An extended limit would seem a more reasonable option for remote rural areas.

I would also encourage you to follow the advice in the Transport Select Committee’s recent report not to use a sledgehammer to crack a nut and to “maintain achievement of the key public policy objective—the provision of high quality, safe and secure community transport services for people who might otherwise be left isolated”.

I welcome DfT’s confirmation that a transition fund will be available, including to those in Scotland, to help with the costs for those who choose to transfer from permits to PSV licences. I understand that an initial sum of £250,000 has been proposed for the UK. Some community transport operators in Scotland have stated that it could cost of up to £120,000 to transfer their operations to PSV licences and associated requirements. I would therefore urge you to reconsider and substantially increase the amount to be allocated for this fund.

Finally, I would expect the proposals set out in the consultation and any subsequent changes as a result of views submitted to it, to be fully set out and discussed in advance with my officials in Transport Scotland. In Scotland, we wish to continue to meet the Standards required by the European Single Market, but we also recognise the value of organisations providing local services, tailored to individual needs for accessibility and inclusiveness.

Sudden changes to a long standing effective system of providing community transport services could prove to be traumatic to the sector and should be avoided. I cannot overstate the importance of clear guidance being provided to community transport operators on how they might best be able to meet the changed requirements being considered in the consultation.

Best wishes
H. Yousof

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