
Cynulliad Cenedlaethol Cymru
Pwyllgor yr Economi, Seilwaith a Sgiliau

National Assembly for Wales
Economy, Infrastructure and Skills Committee

Nusrat Ghani MP
Parliamentary Under-Secretary (Department for Transport)
House of Commons
London
SW1A 0AA

18 May 2018

Dear Nusrat,

Community Transport

I write to share the concerns of the Economy, Infrastructure and Skills Committee, comprising Members of all political parties represented in the National Assembly for Wales, regarding your consultation on changes to guidance on the use of section 19 and section 22 permits for road passenger transport in Great Britain.

The consultation noted that community transport operators provide vital services. In Wales in 2014 it was estimated that about two million passenger journeys, covering approximately six million miles, were delivered. These services often carry the most vulnerable and isolated members of our society.

In Wales, the changes proposed in the consultation could have a significant impact on the sector and their passengers. Already, the Committee has heard that community transport operators in rural Wales are indicating that the changes will force them to close. Indicative figures suggest that in Powys, many of the key population centres could potentially lose their largest and, for many, their only community transport providers. For many passengers this will be the only mode of public transport available to them. In other areas, no services would survive and in more, only car services would remain.



In many cases commercial bus operators do not have, and are not required to have, appropriately equipped accessible vehicles to carry some of the most vulnerable members of our communities. This means that if community transport services are lost because operators lose wider sources of income or face increased costs there will be no possibility that a replacement provider will be available. I'm sure that the impact both on access to education and healthcare, and the cost of delivering these devolved services, will be clear to you.

Any changes to the guidance must not jeopardise services that acts as a lifeline for so many, and as such, a detailed equality impact assessment should be carried out without delay which specifically considers the needs of Wales. Appropriate mitigation of impacts must be implemented in consultation with the Welsh Government and the Welsh community transport sector.

The Committee shares the concerns set out in the letter sent to you on this issue by the Cabinet Secretary for Economy and Transport on 16 April 2018. That letter is attached for reference.

The effects of this consultation are already being felt in Wales with some community transport operators already reviewing their future ability to provide key services in light of the proposals. The Community Transport Association (CTA) estimates that community transport operators in Wales make up 6.25% of all section 19 and 22 permit holders in Britain (CTA publication attached). Of those:

- 95% of community transport operators in Wales will be effected by the proposals, if implemented as they currently stand;
- 28% of community transport operators in Wales will need to transfer their operation to a PSV 'O' licence, a total of 110 operators and 570 vehicles, and;
- 84% of community transport operators in Wales will need their drivers to obtain Driver CPC, totalling 331 operators. Using MiDAS data, organisations have an average of 10 drivers each so 3310 drivers may be effected in total.



Based on those figures, the CTA estimates the financial cost of implementing the proposals for Welsh operators as they stand at £23,168,755. This figure far exceeds the £250,000 you have set aside to offset the impact of these changes across Britain. We also understand that this funding is for advice on the transition only, rather than the actual cost of implementing necessary changes, and we note that both the Welsh Government and the Community Transport Association are unclear on what proportion of this fund extends to Wales.

The Committee has been concerned to hear that the proposals, even before being agreed or implemented, are being enforced in Wales. We understand that, for permits issued by the Traffic Commissioners' Office, the permit issuing process is largely administrative and does not directly involve Nick Jones, the Traffic Commissioner for Wales. There is evidence that already the Traffic Commissioners' staff in Leeds are refusing applications for Section 19 & 22 permits and in one example has advised an operator that they must transition to an O licence within two months. This also opens the possibility that different permit issuing bodies are applying different standards. We are also aware of instances where the police are attempting to enforce changes through penalty notices despite practice being in line with DfT guidance updated in February 2018.

We are concerned that the approach to implementing this change appears to be poorly co-ordinated and is causing confusion, despite the fact that the Department for Transport will have been aware of the possibility that change may be needed for some time as a result of legal challenges.

We believe it is essential that you act now clarify the status of current guidance and the approach to enforcement – particularly to permit issuing bodies and the police. Furthermore, we call for an appropriate and significant transition period to enable operators to comply with any new guidance to avoid a cliff edge which could have a profound effect on community transport provision in Wales and their passengers.



The Cabinet Secretary's letter makes it clear that the decision to amend this guidance sits with you. Permitting arrangements are not currently devolved. Transport accessibility is also a non-devolved area. The primary levers to address the issues raised by the proposed changes do not, therefore, sit in Wales though their impact is already being felt here.

The Committee therefore calls on you to support this important sector in Wales and ensure that these services are not lost, leading too many vulnerable and disadvantaged people in communities across Wales feeling lost too. The Committee urges you to look again at these proposals and work with the Welsh Government and the sector to better understand and protect these vital services in Wales by managing and minimising the impact on services.

I am copying this letter to the Secretary of State for Wales, the Welsh Government, the House of Commons Transport Select Committee, and all Welsh MPs. I look forward to receiving your reply.

Yours sincerely,

A handwritten signature in black ink that reads "Russell George". The signature is written in a cursive style with a large initial 'R' and a long horizontal stroke at the end.

Russell George AM
Chair Economy, Infrastructure and Skills Committee
National Assembly for Wales





Department
for Transport

Russell George AM
Chair Economy, Infrastructure and Skills Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

From the Parliamentary
Under Secretary of State
Nusrat Ghani MP

Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: 0300 330 3000
E-Mail: nusrat.ghani@dft.gov.uk

Web site: www.gov.uk/dft

Our Ref: MC/227006

17 DEC 2013

Dear Russell,

Thank you for your letter of 18 May expressing the concerns of the Economy, Infrastructure and Skills Committee, about community transport in Wales. I am sorry for the delay in responding.

The Department fully recognises the importance of the community transport sector. Community transport operators provide vital services that encourage growth and reduce isolation by linking people and communities to existing transport networks, jobs, education, shops and services.

The UK Government shares the Economy, Infrastructure and Skills Committee's wish to maintain the provision of high quality and safe local community transport for vulnerable passengers. I recognise that clarity over how the licensing regime applies to community transport operators is needed. I know that this is an important issue not only to those commissioning and operating services but also to the local communities who rely on the services.

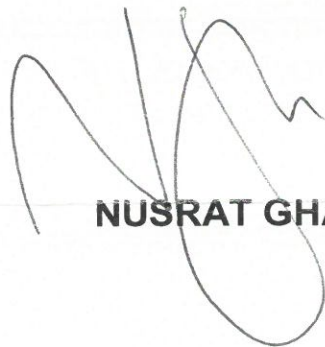
As you may be aware, it is compliance with a directly applicable EU Regulation (1071/2009) which is the issue. When the Regulation was negotiated, the Government's view was that community transport operators would fall under the exemption for operators engaged in road passenger transport exclusively for 'non-commercial' purposes. This was on the basis that 'not-for-profit' equated to 'non-commercial'. However, this has been challenged, with some commercial operators claiming that they are facing unfair competition from community transport operators.

Through the consultation workshops and consultation responses we have sought to ensure that we are aware of any issues specific to the community transport sector in Wales. On 20 July 2018, the Department issued an Interim Summary of Responses to its consultation, which can be found at: <https://www.gov.uk/government/consultations/section-19-and-22-permits-how-to-apply-eu-regulation-10712009>. The Interim Summary explained that the consultation resulted in a large number of lengthy and complex responses. From these it is clear that there is no consensus amongst stakeholders on how the Regulation applies to the community transport sector. I can assure you that the Department is working to address all the legal and other issues raised by the Regulation and I intend to announce the Government's response in the next few months.

While the Department decides its final approach, we have issued guidance that it would in general be premature for any local authority to end or withhold community transport contracts. The Department wrote to all local authorities in England, Scotland and Wales during May 2018 to reiterate that message, which was also emphasised in the Interim Summary of Responses.

Your letter refers to decisions made by the Traffic Commissioner for Wales and the police. The Traffic Commissioners are independent of Government, reflecting their quasi-judicial role. Decisions on the suitability of individual applicants for permits are for them to determine, and not something in which Ministers can intervene. Similarly, the Department cannot interfere with the rightful exercise of police powers. If you would like further information on any of these cases you will need to contact the relevant enforcement bodies.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Nusrat Ghani', written over a horizontal line.

NUSRAT GHANI