



HOUSE OF COMMONS

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**Response to the Department for Transport's Consultation on Section 19 & 22 Permits:
How to Apply EU Regulation 1071/2009**

I am responding to this consultation within my role as Member of Parliament for West Oxfordshire.

I am also Chair of the All-Party Parliamentary Group for Community Transport.

West Oxfordshire is a rural constituency containing a large number of small villages and hamlets. This means that routes in parts of my constituency are unviable for commercial bus providers, owing to the relatively small number of regular passengers.

A significant number of my constituents therefore rely on the services provided by community transport operators.

There are four sizeable community transport providers operating in West Oxfordshire: OurBus Bartons, Villager Community Bus, Volunteer Link-up and West Oxfordshire Community Transport Association.

I note that all of these providers were formed in direct response to the withdrawal of commercial bus services in their respective areas. **It therefore seems perverse that, as a result of an EU regulation, these providers are now threatened with being classified as commercial operators**, although I understand the Government has faced the threat of legal action from the EU Commission.

In any event, I note that a large section of those who use the services provided by community transport operators are elderly and/or vulnerable, often living in the most rural parts of West Oxfordshire. These people often have no alternative to community transport and would, without these services, be isolated.

I know that tackling rural isolation is an important ambition of the Government. **I therefore hope that the outcome of this consultation reflects the vital role community transport providers play in combatting rural isolation and allowing our communities to access the opportunities around them.**

*From the Member of Parliament for the constituency of Witney in West Oxfordshire
including Bampton, Burford, Carterton, Charlbury, Chipping Norton, Eynsham, Witney and Woodstock.*



Question 1

Do you have any comments on how the proposed guidance clarifications in respect of organisations “...engaged in road passenger transport services exclusively for non-commercial purposes” could be further improved or clarified? In particular, do you believe there are further examples of “non-commercial” activity which we should include?

1. **I have concerns about the four exemptions listed in the general guidance.** It is unclear how they would work in practice and it is difficult to comprehend quite who qualifies under these exemptions. Further consideration needs to be given to ensure the exemptions are workable and are clear to community transport providers.
 - 1.1. Further clarity is required on the ‘substantially less than cost’ clause – an entirely obtuse piece of drafting that is almost impossible to understand - to establish what qualifies under this exemption. There needs to be greater detail on how this exemption would be calculated so community transport providers are clear about what level of fares they could charge and still qualify under this exemption.
 - 1.2. It may be intended to help providers like those in my constituency. Even if this is so, it is difficult to see that it will necessarily achieve its objectives, or indeed be understood by those seeking to comply with it. How, for example, is ‘cost’ calculated? What burden will be placed on the volunteers that run these services?
 - 1.3. The intention behind the third clause is sound but it is difficult to see how the current conditions for proving ‘absence of competition’ would work in practice. It is absolutely right that services ought to be allowed to make a surplus as long as there is no competition from a commercial operator.
 - 1.4. However, the rules for this seem unreasonable at present as it may mean that all commercial operators, including taxi firms, need to be consulted about whether they view community transport operators as competition. This would quite evidently lead to complications.
 - 1.5. **A more practical solution would be to give local authorities the sole responsibility as arbiters to assess whether competition exists on local routes.** Not only are they best placed to do so from a knowledge perspective, but they are also accountable to the public.



- 1.6. I also have concerns about the final paragraph of this section. It is not clear whether running a small scale private hire service alongside a main timetabled service will be regarded as commercial.
- 1.7. This is currently permissible under a Section 22 permit and most of the community transport providers in my constituency use private hire as a means of cross-subsidising their main activities. **It is my view that small scale private hire to local organisations and individuals should continue to be permissible under Section 22.**
- 1.8. **Consideration needs to be given as to whether all community transport operators who are registered charities should automatically be deemed non-commercial. This would appear to be the most simple and accurate means of assessing non-commerciality and protecting this vital sector.**

Question 2

Do you have any comments on how the proposed guidance clarifications in respect of organisations "...which have a main occupation other than that of road passenger transport operator" could be further improved or clarified?

2. N/A

Question 3

Do you have any views on whether and how the category "minor impact on the transport market because of the short distances involved" could be used in practice?

3. **This has the potential to be an important exemption and its application ought to be fully explored.**
 - 3.1. I would however note that basing this exemption around district council boundaries will not be useful for many community transport providers. OurBus Bartons' services, for example, cross three district council boundaries, despite travelling a relatively 'short distance'.
 - 3.2. Exempting services which only cover a certain radius seems to be more promising, though I would point out that 20 miles may not be far enough for certain services - particularly those in rural areas.



Question 4

Based on how the Department proposes to apply the exemption for organisations “...engaged in road passenger transport services exclusively for non-commercial purposes”¹ (Table A, paragraphs 3.14 on page 12 to 3.18 on page 14), does your organisation fit into this exemption?

4. N/A

Question 5

Based on how the Department proposes to apply the exemption for organisations “...which have a main occupation other than that of road passenger transport operator”² (Table B, paragraphs 3.19 to 3.21 on page 15), does your organisation fit into this exemption?

5. N/A

Question 6

Based on how the Department proposes to interpret the exemptions to the Regulation, do you think that there could be impacts for specific groups in society?

6. **Yes.** The majority of community transport passengers in West Oxfordshire are elderly and from rural villages. Without the services provided by community transport operators they would be isolated from public transport, and have to find alternative means to get to the shops, GP appointments, or to go and see friends. This will not always be possible, and it will inevitably be the most vulnerable passengers who bear the brunt of any reduction in services.

6.1. I note that any requirement for PSV licensing or, indeed, changes to driver qualifications such as D1 courses would pose an existential threat to community transport operators in West Oxfordshire, who are simply unable to absorb any additional costs or bureaucracy.

6.2. I have strong reservations at the prospect of allowing commercial operators to essentially exercise a veto over exemptions offered to community transport operators. Local authorities are best placed to act as adjudicators and establish where competition exists.

¹ Regulation 1071/2009 Article 1 (4) (b)

² Regulation 1071/2009 Article 1 4 (b)



- 6.3. Further, local community groups may have to look elsewhere for private hire for their excursions, and may well not be able to afford the alternatives. This will impact a wide range of local residents and community groups. This reduction in income for community transport operators may also jeopardise the financial viability of their operations, with dire consequences for local communities.
- 6.4. Consideration needs to be given as to whether these guidelines are necessary and proportionate to the challenge of applying EU Regulation 1071/2009.
- 6.5. I urge the Department for Transport to review these guidelines and ensure the exemptions recognise the unique circumstances of the services provided by community transport operators. The exemptions ought to be generous and flexible to ensure that no community transport operator faces an unnecessary burden as a result of these guidelines.
- 6.6. I hope the Department of Transport will work constructively with the community transport sector moving forward to protect these vital services.**

A handwritten signature in blue ink that reads "Robert Courts".

Robert Courts MP