

<p>Title: The use of section 19 and section 22 permits in providing road passenger transport in Great Britain: Better aligning EU Regulation 1071/2009 with the Transport Act 1985.</p> <p>IA No: DfT00363</p> <p>RPC Reference No: RPC-3489(1)-DFT</p> <p>Lead department or agency: Department for Transport</p> <p>Other departments or agencies: Driver and Vehicle Standards Agency. Traffic Commissioners Office</p>	Impact Assessment (IA)			
	Date: 24/10/2016			
	Stage: Consultation			
	Source of intervention: EU			
	Type of measure: Secondary legislation			
Contact for enquiries: AKWASI MENSAH buses@dft.gsi.gov.uk				
Summary: Intervention and Options				RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out In Scope	Business Impact Target Status
-£69m	-£69m	£8.1m		Non qualifying provision

What is the problem under consideration? Why is government intervention necessary?

There are three key problems relating to organisations and drivers section 19 and section 22 'permits' under the Transport Act 1985:

The legal relationship between the Transport Act 1985 and EU Regulation 1071/2009 ('the EU regulation') is unclear and these pieces of legislation are misaligned, even though both of them regulate aspects of providing passenger transport services; No guidance exists on the scope of the exemptions to 'the EU regulation'; and

The understanding through guidance about the scope of exemptions to having to obtain a Driver Certificate of Professional Competence qualification to be improved.

Government intervention is necessary to facilitate fair competition between permit and non-permit operators, clarify the legal, policy and guidance positions so that operators and drivers are certain of their operating requirements. Also permit-issuing authorities and driver enforcement agencies will be better able to ascertain and penalise permit misuse.

What are the policy objectives and the intended effects?

To clarify legislation and guidance for permit-holders, permit-issuing authorities, enforcement agencies and the PSV industry about:

- the relationship between Regulation 1071/2009 and the Transport Act 1985;
- the organisations and drivers who can operate passenger transport without a PSV operator's licence and the types of services they can provide; and
- the drivers who can operate passenger transport services without holding Driver Certificate of Professional Competence (DCPC) qualification.

To improve compliance with the requirements by increasing knowledge of them and enabling permit-issuing bodies (including Local Authorities); and enforcement agencies to take consistent action against misuse.

To facilitate fair competition between commercial operators; and section 19 and section 22 permit organisations, when competing commercially for work.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

OPTION 1 - DO NOTHING.

OPTION 2 - USING PRIMARY LEGISLATION ONLY

OPTION 3 – NON-LEGISLATIVE:
DEVELOPING A CODE OF CONDUCT
UPDATING GUIDANCE AND IMPROVING ENFORCEMENT USING EXISTING LEGISLATION

OPTION 4 (PREFERRED OPTION) – USING A STATUTORY INSTRUMENT (S.I.), CONSULTING AND UPDATING GUIDANCE: This approach will allow the amendment of legislation and guidance most quickly and clearly; and mitigate the risk of sudden service provision loss. Quickest option with the legal authority to clarify the relationship between 'the regulation' and the Transport Act 1985. Only option to clarify the status of permits with minimal impact on DVSA and Traffic Commissioners.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 06/2022

Does implementation go beyond minimum EU requirements?	No			
Are any of these organisations in scope?	Micro	Small	Medium	Large

	Yes	Yes	Yes	Yes
What is the CO₂ equivalent change in greenhouse gas emissions? (Million tonnes CO₂ equivalent)	Traded:		Non-traded:	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: Date : Enter a date

Summary: Analysis & Evidence

Policy Option 4

Description: Using a Statutory Instrument to clarify the relationship between 'the regulation' and the Transport Act, consulting on and updating guidance about who can operate passenger transport without a PSV licence or Driver CPC training

FULL ECONOMIC ASSESSMENT

Price Base Year: 2014	PV Base Year: 2015	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)			
			Low: -135.3	High: -16.8	Best Estimate: -69.5	
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)	
Low	0.3	1	17.0		135.3	
High	0.3		2.1		16.8	
Best Estimate	0.3		8.7		69.5	
Description and scale of key monetised costs by 'main affected groups'						
Costs to businesses: Familiarisation costs (£0.3m); Public Service Vehicle (PSV) licence costs (£0.2m); Driver Certificate of Professional Competence (DCPC)/ Passenger Carrying Vehicles (PCV) qualification costs (£24.7); Transport Manager costs (£2.3m-£57.6m); MOT costs (£4.6m); Disability Discrimination Act (DDA) certification costs (£0.006m); Bus service registration costs (£0.006m)						
Other key non-monetised costs by 'main affected groups' Notice period for registering bus services Tachograph costs Costs of changing an operator's legal status						
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)	
Low	NQ		NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	
Description and scale of key monetised benefits by 'main affected groups' No benefits have been monetised due to insufficient evidence						
Other key non-monetised benefits by 'main affected groups' -Anti-competitive practices between permit operators and licensed PSV operators will be prevented. -It will be easier for permit holders, permit issuers and enforcement agencies to know what the scope of obligations and exemptions are, meaning that compliance and the ability to take enforcement action will improve, and the accidental misuse of permits through lack of knowledge will be prevented. -Cost savings will occur to operators through reduced misuse of their permits and consequently reduced punitive action by enforcement agencies; -The DCPC qualification requirement will lead to wide-scale improvements in driver behaviour thus resulting in improved road safety; -Bus passengers, operators, other road users and the economy may benefit from better trained drivers and improved quality of road passenger transport services; -Cost savings and reduced risk of service disruption to organisations contracting services from permit operators using permits who are found to have misused their permits. -Organisations providing the DCPC training and examinations will benefit from an increase in patronage and presumably profits. -The road passenger transport market will become more organised and efficient.						
Key assumptions/sensitivities/risks					Discount rate (%)	3.5
The biggest source of uncertainty in this analysis is the size of the sector using section 19 and section 22 permits which will be affected. A range of values have therefore been presented to reflect this uncertainty. The largest potential costs per organisation are the Transport Manager costs, and we have assumed that all operators will hire new staff to perform this role. This is the maximum potential cost impact of meeting this requirement. If however, operators already employ staff who perform the functions of a Transport Manager, they will only have to ensure that these employees are certified which will substantially reduce this cost.						

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: 0.0
Costs: 8.1	Benefits: 0.0	Net: 8.1	

Evidence Base (for summary sheets)

DOMESTIC LEGISLATION AND GUIDANCE: THE EXISTING PERMIT REGIME LICENSING REQUIREMENTS

In Great Britain, the Public Passenger Vehicles Act 1981 requires that anyone using a Public Service Vehicle (PSV) on a road for carrying passengers for hire or reward must hold a PSV operator's licence and comply with several other requirements, such as obtaining an additional driver qualification.

A PSV is defined as a motor vehicle used for carrying passengers for hire or reward which is adapted to carry more than eight passengers or not adapted, but used for carrying passengers at separate fares in the course of a business of carrying passengers.

Sections 19 and 22 of the Transport Act 1985 allow certain types of organisation to operate passenger transport services without holding a PSV operator's licence. Sections 19 and 22 provide the domestic legislative framework for exemptions from the 1981 Act.

These 'permits' are commonly used by "Community Transport" operators to provide transport for passengers unable to access the wider transport network. Passengers include children, the disabled and older people. There is no precise, or legal, definition of what "Community Transport" means. For the remainder of this assessment the term is broadly used to indicate a not-for-profit sector that exists mainly to provide some kind of transport service.

A section 19 permit allows an organisation to provide transport for its own members or other people that it exists to help and to charge for providing that transport. The vehicle cannot be used to making a profit directly or indirectly; or carry members of the general public. A section 22 community bus permit allows a body to run a community bus service, which is a local bus service registered with the Traffic Commissioner. Members of the general public can be carried on a section 22 vehicle. Additionally the vehicle may be used for other purposes in order to provide financial support for the community bus service. From this point onwards in this assessment Transport Act 1985 sections 19 and 22 permits will simply be referred to as section 19 and 22 permits.

Statutory Instrument 1987 No. 1229 titled 'The Section 19 Minibus (Designated Bodies) Order 1987 (as amended)', and subsequent other Section 19 Minibus (Designated Bodies) (Amendment) Orders, set out the which bodies can issue permits.

The online August 2013 'Section 19 and 22 permits: not for profit passenger transport' Guidance discusses the conditions required to use permits.

The 1981 Public Passenger Vehicles Act requires all standard licence holders to demonstrate:

- "professional competence" by having a Transport Manager to manage their transport activities;
- "good repute" by the establishment of proper conduct by the licence holder and where necessary taking account of any relevant convictions;
- "financial standing" by having a certain amount of funds available per vehicle they operate demonstrated by bank statements of cash reserves; and
- having an effective and stable establishment.

These requirements were not taken to apply to those operating using permits until the introduction of the European legislation discussed below.

EU LEGISLATION REQUIREMENTS

Regulation 1071/2009 (referred to from here on as 'the EU Regulation' was implemented in 2011 and governs the requirements across Europe for road passenger transport operators, setting the standards to be met, These standards apply to standard PSV licence holders.

The purpose of 'the EU Regulation' is to ensure that the road passenger transport market: is more organised and efficient; facilitates fair competition; with more drivers achieving higher levels of professional qualifications; and to improve quality of road passenger transport services for operators, customers and the economy.

'The EU regulation' requires all road transport operators to demonstrate:

- "professional competence" by employing a Transport Manager to manage their transport activities 'continuously and effectively';
- "good repute" by the establishment of proper conduct by the licence holder and where necessary taking account of any relevant convictions;
- "financial standing" by having a certain amount of funds available per vehicle they operate, determined by audited accounts; and
- having an effective and stable establishment in the Member State.

However passenger transport operators are only exempt from the above requirements, if they fulfil any of the criteria below:

- either they operate exclusively for non-commercial purposes or have a main occupation that isn't as a road passenger transport operator (Article 1 (4) (b)); and
- they only operate domestically and have a minor impact on the transport market because of driving short distances (Article 1 (5) (b)).

Operators of minibuses using permits for vehicles with a designed maximum capacity of not more than eight passengers are exempt from the requirements of 'the EU Regulation'.

'THE EU REGULATION' & PSV OPERATOR LICENSING PROBLEM UNDER CONSIDERATION

The Transport Act 1985 is not fully aligned with EU Regulation 1071/2009 and appears to allow permits to be issued in certain circumstances that are not covered by the exemptions to operator licensing in 'the EU regulation'. This could lead to a fine being levied against UK Government for non-compliance with 'the EU Regulation', unless action is taken.

In the past, it was assumed by the Department that all permit-holders would fall within Article 1(4)(b) of 'the EU regulation'. However, it has become apparent to the Department that these assumptions are no longer sustainable. In particular, it is no longer possible to assume that all permit-holders are "engaged in road passenger transport services exclusively for non-commercial purposes" for the purpose of Regulation 1071/2009 merely by virtue of compliance, with the not-for-profit requirement applicable to section 19 permits and section 22 permits.

'The EU regulation' has direct effect so is immediately enforceable in UK law without needing to be transcribed. This makes the difference of terminology in UK law and guidance, from EU law even more stark and makes the scope for exemption uncertain for some stakeholders.

Also, the terms used in 'the EU regulation's' exemptions can be interpreted in different ways so require clarification.

Any national systems for exemptions from operator licensing (such as the section 19 and section 22 permit system) should be subject to 'the EU Regulation's' boundaries and Member states cannot adopt additional exemptions to 'the EU Regulation'.

There is therefore uncertainty about the relationship between the 1985 Transport Act provisions and 'the EU Regulation' when issuing and retaining section 19 and section 22 permits.

'The EU regulation' requirements (which relate to all PSV operator licence holders) are more comprehensive and more expensive than those for permit users.

THE DRIVER CERTIFICATE OF PROFESSIONAL COMPETENCE QUALIFICATION REQUIREMENTS PROBLEM UNDER CONSIDERATION

This qualification requirement does not relate to 'the EU regulation'.

The Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (known from this point forward as 'the DCPC regulations' require any Passenger Carrying Vehicle (PCV) drivers, providing passenger transport services who do not fit into its exemptions, to obtain a Driver Certificate of Professional Competence (DCPC) qualification. 'The DCPC Regulations' originate from EU law which has been transposed into UK law.

The DCPC is a qualification for professional bus, coach and lorry drivers across Europe. It was introduced into the UK in 2009 with the aim of improving road safety, improving driver's knowledge and helping to promote and maintain high standards of driving. It consists of an initial test, maintained by periodic five year training.

This requirement applies to all PSV licence-holders but also potentially many permit drivers even if they fit in into 'the EU regulation's' exemptions, and this is the reason for discussing it in this impact assessment.

'The DCPC Regulations' paragraph 3 (2) sets out exemptions in which passenger transport services can be provided by drivers without having to hold a DCPC. The exemption is not specific to those operating using section 19 and 22 permits but the one that most applies to the sector is:

"A vehicle....which is being used for the non-commercial carriage of passengers or goods for personal use..."

The 'non-commercial' terminology in 'the DCPC regulation' is similar to that used in 'the EU Regulation' and there is lack of clarity among permit holders about its scope in relation to their operations.

Previously guidance 'Section 19 and 22 permits: not for profit passenger transport' dated 7 August 2013 stated that anyone with a section 19 or 22 permit was exempt from the requirements of PSV licensing and DCPC qualification training.

Evidence from stakeholders suggests confusion about whether non-commercial can still be equated with not-for-profit and whether the 'for personal use' part of the exemption is needed if non-commerciality has been proven.

There is also a Minibus Driver Awareness Scheme (MIDAS) of training. There is no legal requirement for, or recognition of, organisations to have a MIDAS training.

DCPC training is more expensive and though modular, takes longer than the MIDAS training that most operators using section 19 organisations complete. The lower cost of the MIDAS compared to DCPC qualification training once again means that when competing for the same work, operators using permits have lower initial operating costs which can translate into being able to provide passenger transport services at a lower price than PSV operator licence holders.

IMPACT OF DOMESTIC AND EU LEGISLATION BEING MISALIGNED AND LACK OF GUIDANCE ON THE SCOPE OF THE EXEMPTIONS TO 'THE EU REGULATION' AND 'THE DCPC REGULATION'

Stakeholder feedback indicates that it is difficult to know:

- which piece of legislation to apply first in deciding whether to apply for an operator's licence or permit;
- which exemptions apply; and
- how to establish what permit holder's obligations are.

This uncertainty contributes to:

- non-compliance with obligations by drivers and operators through ignorance or lack of clarity;
- difficulties for enforcement agencies such as the Driver and Vehicle Standards Agency (DVSA) and permit issuers such as Traffic Commissioners, (who also regulate operator licence holders), in ensuring that permit holders fulfil their permit and driver training obligations to operate safely on roads; and

- stakeholder complaints that the profile of organisations using permits has changed significantly over the thirty years since the Transport Act was passed, and that as a result many not-for-profit permit-holders have expanded and now compete actively with profit-making PSV licence-holders - particularly for local authority contract work. They allege that permit holders have an unfair advantage over them by having lower operational costs (because they are exempt from operator licence compliance costs and DCPC qualification costs) and therefore are able to offer services at a lower price. The resulting competition between permit-holders and PSV licence-holders was not intended or foreseen and make it difficult to distinguish between commercial and permit operators. Greater clarity about the obligations of 'permit' holders is therefore required.

ENFORCEMENT

The DVSA investigates possible breaches of permit legislation, including the requirements for the driver. Where an operator is providing a transport service which is not compliant with operating under a permit, the DVSA can take enforcement action such as impounding vehicles, on the basis of the offence of operating without a PSV operator's licence.

Traffic Commissioners can revoke any section 19 and section 22 permits. Designated bodies can only revoke permits that they themselves have issued. The revocation grounds for section 19 permits are not specified in legislation but where transport services being provided fall outside the terms of the permit, then it can be revoked and the operator advised to apply for a PSV operator licence.

RATIONALE FOR INTERVENTION

In December 2010 DfT produced a joint Impact Assessment (IA) for implementing EU regulations including Regulation 1071/2009. The IA contained very little information about the impact of 'the EU Regulation's' requirements on permit users. It largely focussed on the some costs of meeting requirements in a specific way rather than the impacts of not being able to satisfy the requirements. The IA stated that 'the EU Regulation' would not impact on community transport organisations who operated services non-commercially.

Though the implication is that all permits issued since 2011 have been subject to 'the EU Regulation', that is not the case, as DfT and all permit-issuing bodies previously treated being 'not-for-profit' synonymously with being 'non-commercial'. This means that the assumption was that community transport organisations were exempt from the provisions of 'the EU Regulation'.

The Department accepts that being "engaged in road passenger transport services exclusively for non-commercial purposes" for the purpose of Regulation 1071/2009 does not equate to the not-for-profit requirement applicable to section 19 permits and section 22 permits.

Practically, the majority of permit users were only granted permits under the Transport Act criteria.

At implementation stage, the provisions of the Transport Act 1985 (sections 18 to 23) should have been, but were not, amended to align them more explicitly with the EU Regulation's' derogations and some clarification is required. Correct implementation should mean that a permit should be invalid if it does not comply with 'the EU Regulation' without any need for enforcement action.

In addition, the permit revocation powers (s20 (5) (a) and 23 (6)) are not adequate to enforce compliance with 'the EU Regulation' without bringing organisations and drivers to the attention of the regulator and enforcement body.

A mechanism is needed therefore that invalidates permits without the need for them to be reported to the DVSA or Traffic Commissioners first.

It is the Government's responsibility to clarify the legal position and address the misalignment of domestic and EU legislation to prevent a potential fine.

The scope of Vehicle Drivers (Certificate of Professional Competence) Regulations 2007, DCPC exemption, for those providing road passenger transport services using permits, has been misunderstood and needs to be further clarified in guidance.

Additionally, the Government wants to clarify exemptions for section 19 and section 22 permit holders, so that they are not used by organisations that undermine competition and road safety, but remain open to those who operate within the scope of exemptions to 'the EU Regulation'.

The Department is best placed to amend legislation and guidance to rectify this uncertainty and will work with the Driver and Vehicle Standards Agency (DVSA), Traffic Commissioners and the permits holding sector to ensure that any changes proposed are effective.

Unless Government intervenes, the confusion about the obligations of section 19 and 22 permit holders and the exemptions available to them will persist. This reduces compliance with obligations and reduces the scope for the improvements intended from 'the EU Regulation' and the 2007 Regulations.

The Government wants the passenger transport market to function in a fair and equitable manner.

GOLD PLATING

The rationale for intervention does not go beyond the minimum standards required for 'the EU Regulation', to be effective and consequently does not amount to 'gold plating'.

Legislation

'The EU regulation' does not permit any additional exemptions to be created and therefore we are not imposing any additional legal obligations. As mentioned above, correct implementation should have resulted in the Transport Act 1985 (sections 18 to 23) being amended to align them more explicitly with 'the EU Regulation's' derogations.

We only propose to use the power in the European Communities Act 1972 to explicitly say that eligibility for new permits is restricted to "exempt bodies" as defined in 'the EU Regulation' and existing permits are only valid for as long as their organisation(s) continue to satisfy the licensing exemptions. This does not go beyond the EU minimum standards. The European Communities Act power is normally interpreted as authorising the minimum of changes to make EU policies and legislation workable domestically. The legislation can be enacted in a similar timeframe to guidance.

Guidance

We are using this non-legislative option to set out the scope of exemptions to 'the EU regulation' and the requirement for obtaining a DCPC qualification to facilitate understanding, compliance by the sector and effective enforcement. Additional clarification is needed to because the scope of those exemptions have never been discussed in any Government Guidance previously. Also there is little existing case law that uses the same terminology as 'the EU Regulation's' exemptions.

Enforcement

The existing enforcement powers are insufficient to force compliance with 'the EU Regulation'.

Transport Act section 20 powers allow a Traffic Commissioner or permit-issuing body to revoke section 19 permits that they have issued. Traffic Commissioners can also revoke permits issued by permit-issuing bodies after consultation with those bodies. As hundreds of Councils and organisations can issue permits and there is no legal requirement (though Guidance does recommend it), for those permit-issuers to inform the Traffic Commissioner about permits that they have issued, using these powers would be lengthy. As some bodies were granted permit-issuing powers almost 30 years ago, some of them may have ceased to operate, changed their organisational structures and purposes, relocated or simply not retained records of those they issued permits to.

These powers would likely result in inefficient, inconsistent compliance and impose a large burden on Traffic Commissioners and the DVSA.

The powers in the Transport Act section 23 authorising the revocation of section 22 community bus permits do state that not meeting permit conditions is grounds for revocation, however those conditions are set out in the Transport Act itself and no reference to 'the EU Regulation' is made.

The Preferred Option is simply the quickest and simplest way of aligning the domestic and European legislation, using an appropriate vehicle to clarify their relationship and is the strongest option capable promoting self-assessment and transition within the sector.

BASELINE

Given the current lack of compliance with 'the EU Regulation' due to an incomplete implementation, we assume that in the counterfactual, organisations continue to incorrectly apply exemptions from PSV operator licencing. The preferred option of this intervention is expected to redress this issue, and introduce several costs and benefits.

The baseline for determining additional costs and benefits of government intervention, should contain the expectation that the UK Government complies with EU law, through minimum requirements. Given that the preferred option of this intervention is the minimum requirement to align with EU legislation, the costs imposed by it should be considered as part of the baseline of UK Government fulfilling its obligation to transpose EU law, and will be considered of as adding no additional regulatory burdens.

POLICY OBJECTIVE

Compliance will allow the sector to fully realise the benefits intended from 'the EU Regulation' and the UK Government to prevent a possible fine, the UK Government wants to fully align domestic legislation with the requirements of 'the EU Regulation'.

Benefits include a higher level of professional qualification in road transport operators, better road safety, better driver standards, a more organised and efficient passenger transport market, and improved quality of road passenger transport services for operators, customers and the economy.

Improving understanding of legislation and guidance in this area will:

- make it easier for permit holders, permit issuers and enforcement agencies to know what the scope of obligations and exemptions are;
- improve compliance and the ability to take enforcement action;
- prevent of anti-competitive practices between permit operators and licenced PSV operators (and cost savings from operators by misuse of permits);
- prevent of the accidental misuse of permits through ignorance or lack of clarity;
- reduce the risk to organisations contracting services from operators using permits to provide transport for vulnerable passengers, of those operators being found to have misused their permits and consequently those services being disrupted; reinforce that Government supports proportionate regulation of all drivers and that organisations using section 19 and 22 Transport Act permits are regulated fairly; and
- Protect the permit system of exemptions for organisations which are operating within the scope of exemptions to 'the EU Regulation'.

Consideration needs to be given to the most comprehensive way of achieving this. Any solution needs to promote self-assessment to transition to a compliant state as much as possible to minimise the drain on resources to the regulator (Traffic Commissioners) and enforcement agency (DVSA) in light of the limitations (discussed on page 8) of the permit revocation powers. Any solution must include a method of declaring permits invalid with minimal reference to permit issuing bodies, some of which may no longer exist or hold records of the permits they issued.

Consultation

We propose to consult on why and how we propose to amend:

- Domestic legislation and guidance about who can operate PSVs without a PSV operator's licence, using the system of permits that is set out in sections 18 to 23A of the 1985 Act, to correctly implement 'the EU regulation'. The proposals affect the operating model that many organisations using section 19 and 22 permits rely upon; and

We also wish to clarify the relationship between 'the EU Regulation' and the Transport Act 1985.

A copy of the draft Consultation document containing the questions we propose to ask consultees (pages 19 - 25) and the meanings we propose to ascribe to the exemptions (pages 13 to 17) to 'the EU regulation' is attached at **Annex A**.

DESCRIPTION OF OPTIONS CONSIDERED (INCLUDING DO NOTHING)

In all options involving guidance consideration will be given to the senior Traffic Commissioner issuing statutory guidance.

OPTION 1 – DO NOTHING (the baseline option).

IMPACT

Confusion about the circumstances in which road passenger transport operators can be exempted from the requirements of ‘the EU regulation’ in PSV operator licensing would continue, causing reduced compliance with obligations through ignorance; and reducing the scope for improvements intended from ‘the regulation’.

There is a risk that the Department will be perceived to be turning a blind eye to regulating permit organisations in operating commercially and perpetuating anti-competitive practices between permit holders and commercial operators, as well as potentially compromising road safety.

If the relationship between domestic and EU law is not clarified the UK could face a potential fine. The eventual cost of a fine could well quickly exceed the financial impact of parts of the sector using permits moving to a PSV licence regime, with its associated costs and additional training.

Currently the domestic legislation is silent about the requirements of and exemptions to ‘the EU Regulation’ as is some of the existing guidance¹. What, the scope and examples of what ‘the EU Regulation’ could be interpreted to mean has never been set out in Guidance.

The enforcement powers² for permits refer only to domestic criteria for ascertaining validity or breach and as stated in the rationale for intervention are insufficient to enforce ‘the EU Regulation’ effectively, particularly with respect to existing permits, without reference to an enforcement body or regulator.

DVSA Operational Enforcement is set up to undertake enforcement in a very targeted way, following up on credible intelligence. Their current level of resource and overall enforcement strategy lends itself to efficient and effective processes. DVSA see the use of existing powers on a wide scale as a method of ensuring compliance with ‘the EU Regulation’ as incompatible with their existing strategy, ineffective and inefficient. They do not believe that enforcement could be achieved using their current resources and believe the use of existing powers would lead to inconsistent application.

This option would not increase the ability of the DVSA and Traffic Commissioners to take action against permit misuse. This option would also not mitigate the risk to organisations that contract out work to permit operators of service loss if those operators are found to have misused their permits, or facilitate the interpretation of legislation in the absence of case law.

This option would not improve driver training among permit holders by increasing understanding of and compliance with ‘the DCPC regulation’s requirements.

COST

We have not been able to ascertain the cost of perpetuating the competitive advantage of organisations that use permits over those that are PSV licenced. We have no evidence of bodies that issue permits charging more than cost recovery for licences so no evidence that they benefit from the current situation. We have insufficient evidence of any financial loss to bodies who train drivers in obtaining a DCPC qualification losing funds because of drivers currently incorrectly receiving MiDAS training, who should be obtaining a DCPC qualification.

BENEFIT

¹ August 2013 ‘Section 19 and 22 Permits: not for profit passenger transport’

² Transport Act 1985 sections 20 and 23.

Bodies operating under permits benefit from the reduced costs associated with their proportionate regulation and are able to continue passing on those savings to organisations who grant them contracts including Local authorities.

The misalignment of domestic legislation with ‘the EU Regulation’ and confusion among operators, drivers about the scope of ‘the EU regulation’ and ‘the DCPC regulation’s’ exemptions and operating requirements is evidence that doing nothing is not a viable option.

OPTION 2 – USING PRIMARY LEGISLATION ONLY

Using primary legislation to modernise the Transport Act, to take account of ‘the EU Regulation’ and make other desirable changes to the permits regulation regime.

IMPACT

This option is too lengthy to implement because of the time that it would take to find an appropriate vehicle in primary legislation to authorise any changes, and the greater timescales involved in drafting, then clearing legislation prior to enactment. Also, amending legislation would not automatically update guidance and therefore not completely reduce uncertainty about the guidance position on the circumstances in which road passenger transport operators can be exempted from the requirements of ‘the EU regulation’ or ‘the DCPC’ regulation. The legislation concerning DCPC qualification is clear, so that legislation would not be amended by this option.

This year, there have already been incidents reported in the transport trade press regarding confusion about the scope for permit holders of exemptions from ‘the DCPC regulation’ and ‘the EU regulation’. There therefore needs to be a faster solution than this lengthy option to clarify the position. This option would not mitigate the risk of a fine for incomplete implementation of ‘the EU regulation’. The driver training of and quality of road passenger transport services for drivers under permits would not improve, potentially compromising road safety.

COST

There would be some familiarisation costs to all organisations operating using permits. There could also be costs to parts of the permits sector from having to satisfy ‘the regulation’, transitioning to standard or restricted PSV operator licensing and obtaining a DCPC qualification.

BENEFIT

This option would comprehensively clarify the relationship between the Transport Act and ‘the regulation’; and set out the legislative requirements for exemptions to PSV operator licensing. To a greater extent than Options 1- Doing Nothing and Option 3 (the Non-Legislative options) but less than the Preferred Option, this option would: increase legal knowledge of obligations and exemptions from PSV licensing, increase compliance with licence obligations, increase the ability of bodies to take enforcement action against licence misuse, reduce anti-competitive practices between permit users and PSV licence holders, reduce the risk of operators being found to have misused their permits and consequently the services they provide being disrupted, and reinforce that Government supports proportionate regulation of all drivers. This option would also partially realise the benefits intended from ‘the EU regulation’, clarify the validity of existing permits without reference to an enforcement body, regulator or permit –issuer. This option would also facilitate the interpretation of legislation in the absence of case law.

OPTION 3 - NON-LEGISLATIVE MECHANISMS:

DEVELOPING A CODE OF CONDUCT

Developing a code of conduct for permit users to follow that suggests that they comply with the scope of the exemptions to 'the EU Regulation' and the scope of the exemptions to obtaining a DCPC qualification, without changing the guidance or making any legislative changes.

IMPACT

This option does not have any legal authority to clarify either the relationship between 'the EU regulation' and the Transport Act 1985 or the scope of PSV Operator licensing obligations in legislation. It cannot therefore mitigate the risk of a potential fine or fully realise the benefits from implementing 'the EU Regulation'. A code of conduct is not legally binding and could not guarantee compliance with mandatory legal requirements. The full benefits of 'the EU regulation' would only be realised by signatories to this option who comply with its standards rather than the entire passenger transport sector as intended.

It is unlikely that the majority of organisations operating under permits would voluntarily choose to sign up to a code of conduct that increases their licensing and training qualification costs without reference to the DVSA, Traffic Commissioners and Permit-issuers to clarify the validity of existing permits.

Therefore, it can only reduce service loss by improving the role of self-assessment and self-transition in transition where necessary for those who sign-up to the code or reduce the risk of operators (and those who contract services to signatories to the code) being found to have misused their permits and consequently the services they provide being disrupted.

By defining the scope of exemptions in as standards in a voluntary code of conduct, this option cannot limit anti-competitive practices (and cost savings from misuse of permits) outside of signatory permit operators who meet the voluntary standards. This option also cannot improve the ability of the DVSA, Traffic Commissioners or permit-issuers to take action against misuse by giving them code of conduct standards about the scope of exemption to 'the EU regulation' and 'the DCPC regulation'. A voluntary code of conduct cannot facilitate influencing the interpretation of legislation, in the absence of a substantial body of case law.

COST

There could be some familiarisation costs to organisations operating using permits but these costs would be voluntary and operators would only choose to bear those, if the benefit of doing so exceeded the cost. Therefore these costs have been discounted. There could also be voluntary costs to parts of the permits sector from satisfying 'the regulation', transitioning to standard or restricted PSV operator licensing and obtaining a DCPC qualification. There is limited evidence about the ability of those currently operating under permits to bear those additional costs.

BENEFIT

This option has the benefit of being relatively quick and would be sufficient to clarify as standards in a code of conduct Guidance, the requirements for exemptions to PSV operator licensing and obtaining a DCPC qualification, but only as voluntary standards for those that chose to sign-up. The driver training of and quality of road passenger transport services for signatories would improve, preventing potentially compromising road safety.

UPDATING GUIDANCE AND IMPROVING ENFORCEMENT USING EXISTING LEGISLATION

Consulting on and revising Guidance³ provide more examples of the scope of exemptions to 'the EU Regulation', scope of exemptions to obtaining a DCPC qualification. Communicating with the regulator (Traffic Commissioners), the enforcement agency (DVSA), Permit Issuers and permit operators to insist that Regulation 1071/2009 criteria be applied to all existing and new permits without revising making any legislative changes.

³ August 2013 'Section 19 and 22 Permits: not for profit passenger transport'

IMPACT

This option does not have any legal authority to clarify either the relationship between ‘the EU regulation’ and the Transport Act 1985 or the scope of PSV Operator licensing obligations in legislation. It cannot therefore mitigate the risk of a potential fine or fully realise the benefits from implementing ‘the EU Regulation’. Guidance is not legally binding and could not guarantee compliance with mandatory legal requirements.

It is unlikely that the majority of organisations operating under permits would voluntarily choose to increase their licensing and training qualification costs without reference to the DVSA, Traffic Commissioners and Permit-issuers to clarify the validity of existing permits.

Therefore, it can only partially reduce service loss by improving the role of self-assessment and self-transition in transition where necessary or reduce the risk of operators (and those who contract services to them) being found to have misused their permits and consequently the services they provide being disrupted. .

By defining the scope of exemptions in guidance, this option can only partially prevent anti-competitive practices between permit operators and licenced PSV operator licence holders (and cost savings from misuse of permits). This options can also only improve the ability of the DVSA, Traffic Commissioners or permit-issuers to take action against misuse by giving them guidance on the scope of exemption to ‘the EU regulation’ and ‘the DCPC regulation’.

COST

There could be some familiarisation costs to organisations operating using permits but these costs would be voluntary and operators would only choose to bear those, if the benefit of doing so exceeded the cost. Therefore these costs have been discounted. There could also be voluntary costs to parts of the permits sector from satisfying ‘the regulation’, transitioning to standard or restricted PSV operator licensing and obtaining a DCPC qualification. There is limited evidence about the ability of those currently operating under permits to bear those additional costs.

BENEFIT

This option has the benefit of being relatively quick and would be sufficient to clarify in Guidance, the requirements for exemptions to PSV operator licensing and obtaining a DCPC qualification. Guidance effectively facilitates influencing the interpretation of legislation, in the absence of a substantial body of case law. The driver training of and quality of road passenger transport services for those compliance was enforced against and those who chose to voluntarily transition to PSV operator licensing would improve, preventing potentially compromising road safety.

OPTION 4 (PREFERRED OPTION): USING SECONDARY LEGISLATION, CONSULTING AND REFRESHING GUIDANCE

Consulting on the scope of exemptions to ‘the EU Regulation’ and obtaining a DCPC qualification. Using secondary legislation clarify (in the Transport Act) that in order to be entitled to new or have existing permits be considered valid, road transport passenger operators first have to fit into one of the exemptions of ‘the EU Regulation’. Revising Guidance⁴ accordingly and revising the existing DCPC guidance.

IMPACT & BENEFITS

This option provides a chance of addressing both the legislative and non-legislative aspects of the problem. It combines the advantages of a legislative approach (clarifying the relationship between

⁴ August 2013 ‘Section 19 and 22 Permits: not for profit passenger transport’

domestic and EU legislation), with the speed of non-legislative clarification of guidance and ensures that the views of the sector using permit's views on the above are heard.

This is the only quick and most appropriate legislative option capable of clarifying the relationship between and better aligning 'the regulation' and the Transport Act 1985. Additionally its non-legislative element quickly allows clarification of the guidance position on PSV operator licensing and DCPC qualification exemptions; and effectively facilitates influencing the interpretation of legislation, in the absence of a substantial body of case law. The driver training of and quality of road passenger transport services for drivers under permits would improve, preventing potentially compromising road safety.

This option would increase legal knowledge of obligations and exemptions from PSV licensing, increase compliance with licence obligations, and quickly clarify the requirements for exemptions obtaining a DCPC qualification in guidance. Guidance effectively facilitates the influencing the interpretation of legislation, in the absence of a substantial body of case law.

It would also: increase the ability of bodies to take enforcement action against licence misuse, reduce anti-competitive practices between permit users and PSV licence holders, reinforce that Government supports proportionate regulation of all drivers, and reduce the risk of operators being found to have misused their permits and consequently the services they provide being disrupted.

Organisations providing the DCPC training and examinations will benefit from an increase in patronage and presumably profits.

Bus passengers, operators, and other road users and the economy may benefit from better trained drivers and improved quality of road passenger transport services.

The full benefits of 'The EU regulation' would be realised.

IMPLEMENTATION

Following consultation and consideration of its responses to decide on any possible changes to legislation and guidance, we would expect the Government to implement our Preferred Option.

The proposed amendment would not constitute a substantive change to the law because 'the EU Regulation' currently already has direct effect in the UK. The amendment would merely clarify the current legal position for the benefit of permit-holders, issuing authorities and enforcement agencies.

THE PSV LICENSING EXEMPTIONS

The DVSA provides online⁵ guidance for applicants for/holders of permits.

Sections 2 and 3 of that guidance describe the two types of permit, and who is eligible to hold them. We propose to restructure those sections of the guidance around the relevant derogations set out in 'the EU Regulation' in order to clarify that a body must satisfy one of the derogations in order to apply for and hold a permit.

We cannot provide guidance that covers all possible circumstances. The bodies that use permits are diverse in size, operation and constitution. We want, nevertheless, to provide all potential applicants for permits with as clear a description as possible of what the exemption categories may mean in practice. All cases will still need to be treated on their individual merits. However, we hope to provide guidance that is clear and helpful in the majority of situations.

Neither the current nor proposed revised guidance carries any legal weight. Only the Courts can provide a definitive interpretation of the legislation.

OPERATORS OF ROAD PASSENGER TRANSPORT

We do not expect all operators with Transport Act section 19 permits to fail to meet 'the EU Regulation's' requirements and have to transition to standard or restricted PSV operator licensing and obtain a DCPC qualification, or cease operating. There are also additional costs covered in the analysis section of this document.

We only expect those who do not fit into any of the above exemptions to face transitional costs.

⁵ <https://www.gov.uk/government/publications/section-19-and-22-permits-not-for-profit-passenger-transport>

Under the changes we propose to Guidance, we believe that the exemptions we intend to outline further (see Annex A), will allow a significant number of operators using permits to retain them and consequently continue to be able to use MIDAS training. We strongly believe that the organisations using voluntary drivers and not competing commercially will also be the smallest, most vulnerable and least robust to transition to PSV operator licensing and DCPC qualification, costs. We think that those drivers and organisations are those that the 'spirit' of the Transport Act exemptions were intended to protect. By reason of their voluntary ethos we believe those organisations should remain proportionately less regulated than others.

We would expect organisations whose main occupations are as road passenger transport operators, who do not fit into any of the other exemption categories in 'the EU Regulation' to have to transition to standard or restricted PSV operator licensing or cease operating.

We expect a greater impact on Transport Act section 22 permit holders having to transition to a PSV operator licence and a DCPC qualification training, regime. This is because we expect many section 22 permit holders to be operating commercial bus routes and have a main purpose as road transport operators.

We would also expect drivers paid more than out-of-pocket expenses that bear little relation to the services they provide, who do not fit into any of the other exemption criteria, to be considered to be operating commercially and not for 'personal use'. We also expect 'fully' paid drivers in being taken to be operating commercially to require a DCPC qualification.

Initially we expect the greatest impact to be on new applicants for section 19 and 22 permit applicants who will be considered against 'the EU Regulation's' exemptions before the Transport Act's conditions.

Obtaining a PSV operator licence will allow not-for-profit bodies to engage in competition with profit-making bodies and expand their opportunities. Not-for-profit bodies have just as much potential to operate successful, quality services as profit-making bodies; a wider holding of PSV operator licences in the not-for-profit sector presents positive as well as negative impacts.

We do not expect there to be any impact on bodies who use permits to operate transport that is a 'side-line' or incidental to their constitutional objects and day-to-day activities. As outlined above there is no change proposed to how Scout or other youth groups, for example, can operate their minibuses using section 19 permits.

We expect that most local authorities will review their contracts with operators to determine if they:

- can still operate under a permit or whether they need to transition to PSV licensing;
- can still provide contracted services at pre-agreed costs and if not, whether authorities can afford the new costs or if new bidding rounds for contracts are required; and
- now require DCPC qualification;

We expect local authorities to mitigate their risks, however we advise them to take a proportionate view of the timescales for permit-operators to comply and retain service provision for vulnerable passengers wherever possible.

Over time we expect operators using permits to self-regulate and transition or cease operating as they become aware of changes to legislation and guidance.

We expect driver enforcement agencies like the Driver and Vehicle Standards Agency (DVSA) and the Traffic Commissioners as the regulators to continue to take action against permit misuse by using available penalties for misuse. Licensing authorities and bodies like these are likely to face an increase to volume of familiarisation queries. Potentially licensing applications could increase in anticipation of legal and guidance changes by operators wishing to qualify for permits under the 'old' rules.

ANALYSIS OF THE IMPACTS ON BODIES OPERATING UNDER SECTION 19 AND 22 TRANSPORT ACT 1985 PERMITS

Data held by Traffic Commissioners allows us to examine the make-up of bodies operating under section 19 and 22 permits. Section 19 permits can be standard (up to 16 passengers or less) or large (17 passengers or more). The data contains basic information about operators who have applied for one of the three types of Transport Act 1985 permits – section 19, section 19 large and section 22. This data shows that there are approximately 6,300 operators who hold valid permits. The vast majority of these operators (around 94%) hold only section 19 permits while others hold either section 19 large (1%) permits, section 22 permits (4%) or multiple permits (1%). The types of permit held by operators are displayed in Chart 1 below. The manually-entered fields that make up the data could contain a substantial number of entry errors, so all results derived from using this data should therefore be treated with caution.

Chart 1: Chart showing the number of operators holding section 19 and section 22 permit types (figures rounded to prevent spurious accuracy).



The permit data also suggests that around half of bodies operating using permits are educational institutions such as schools and universities. This has been estimated using a keyword sift of the names of operators (e.g. those operators with the words 'school', 'college' or 'university' in their name have been classified as being educational institutions). These figures should therefore be treated with caution but do provide some indication of the types of organisations which make up the sector.

Table 1: Types of operators using section 19 and section 22 permits (figures rounded to prevent spurious accuracy)

Type of operator	Number of operators
Educational institution	3,000
Place of worship	150
Local authority	200
Other (including charities)	2,950
Total	6,300

In order to examine the effects of complying with ‘the EU Regulation’, transitioning to PSV operator licensing and obtaining a DCPC qualification on different sizes of business, operators have been categorised into five sizes based on the number of vehicles that they have. Permits are not vehicle-specific but a single permit at a time can be used for a vehicle. For simplicity, we have assumed that a permit is equivalent to a vehicle. We will be using the consultation itself to test this assumption and others about the number of drivers in organisations that use permits by asking: ‘How many vehicles does your organisation operate using permits?’ and ‘How many drivers does your organisation employ?’

This shows that the vast majority of operators using section 19 and section 22 permits are small or micro operators with less than 20 vehicles.

Table 2: Approximate number of operators using section 19 and section 22 permits by size (figures rounded to prevent spurious accuracy)

Size of operator	Number of buses	Estimated number of operators using section 19 and 22 permits of this size
Micro	1-5	5,600
Small	6-20	600
Medium	21-50	70
Large	51-100	20
Very Large	101+	Less than 10

By applying the same definitions for operator size from the Traffic Commissioner data, to data from 400 applicants to the Community Transport Minibus Fund, the average characteristics of an operator of each type have been estimated (see table below). The Community Transport Minibus Fund is a competitive funding scheme run by the Department for Transport to help operators using permits, to buy new minibuses. Applicants to this fund had to submit financial and organisation personnel information. The data was collected in 2014/15 and could be argued to be more representative of more engaged permit operators than of the sector as a whole. The 400 operators are felt to be a reasonable sample size to estimate general characteristics of section 19 and 22 permit holders. Though this data will not include permit operators who are not seeking financial assistance from the fund and therefore might not be typical of the entire permits sector, in the absence of an alternate dataset, if we treat applicants as representative of the entire permits sector we can estimate the typical number of staff, income and savings for an average permit operator.

Table 3: Average attributes for operators of different sizes using section 19 and 22 permits (figures rounded to prevent spurious accuracy).

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Average number of vehicles	3	10	36	79	595
Average number of staff and volunteers	18	63	177	435	1,564
Average income (2014 prices)	£94,000	£370,000	£1,500,000	£3,600,000	£10,200,000
Average reserves (2014 prices)	£41,000	£160,000	£320,000	£590,000	£10,400,000

ANALYSIS FOR PREFERRED OPTION

When considering the likely impacts of the proposed policy change, it is worth noting that of the approximately 6,300 section 19 and 22 permit operators, we have already identified that at least 3,150 (Educational and Religious institutions) will be **exempt** from the requirements of 'the EU Regulation' by virtue of operating passenger transport services as ancillary to their main business. These organisations will be able to retain their permits for use as before.

This analysis suggests that the number of **section 19 and 22 permit operators potentially affected by the requirements of 'the EU Regulation' and the transition to PSV operator licensing-related requirements is approximately 2,900 operators or 46% of the sector.**

By virtue of the narrower exemption to obtaining a DCPC qualification in our analysis we have assumed that 50% or 3150 operators may be affected in our high scenario. Moreover we treat the additional 4% of them, as requiring a full transition to PSV licencing (rather than just DCPC costs), in order to provide a conservative estimate.

This is not an assumption for which we have any evidence. We do however think that section 22 permit holders are very likely to be affected by the DCPC qualification costs and so we have included these operators in all of our scenarios for these costs.

As we do not have any data on the proportion of permit operators who might be exempt on the basis of operating exclusively non-commercially or for a short distance we have assumed that no operators come under those exemptions in the high scenario, **which would certainly not be the case.** The central and low scenarios presented for the overall results therefore help to illustrate the potential range of impacts which may result from the proposed policy.

Therefore, from this point on, in relation to impacts arising from transitioning to PSV licencing it should be noted that over half of section 19 and 22 permit holders have already been exempted.

On the basis of the definitions that we propose to ascribe to exemptions to 'the EU Regulation' and DCPC qualification requirements, we propose using the consultation to ask:

Which of the following permit/licence types do you operate using? [Followed by a list of permit types and a PSV Operator licence option], Are any of your drivers paid more than out-of-pocket expenses?, Are any of your drivers unpaid volunteers?, Do you charge for your transport services?, If so, is the charge much less than the actual cost of providing the services?, Do you provide regular transport services?, Do you provide occasional transport services?, Did you gain any of your current work through tendering against non-permit holding organisations?,

This will provide some indicative data on the impact of the exemptions that require operating non-commercially.

More widely, we are working with KPMG and the Community Transport Association to better understand how the permits sector operates which should help refine our assumptions.

For simplicity we have also assumed that the approximately 3,150 potentially affected operators are divided equally into the same operator sizes as previously. Therefore table 4 shows the maximum size of the operator population who could potentially be affected by the proposed policy change. This is approximately 50% of the overall population of the sector.

Alongside the consultation, to test our assumptions about operator sizes, we propose to ask: *How many vehicles does your organisation operate using permits?, How many staff does your organisation employ? and How many drivers does your organisation employ?*

Table 4: The likely maximum number of operators who could have to transition to PSV operator licensing (figures rounded to prevent spurious accuracy)

Size of operator	Number of buses	Estimated number of operators using section 19 and 22 permits of this size
Micro	1-5	2,800
Small	6-20	300
Medium	21-50	40
Large	51-100	10
Very Large	101+	less than 10

Monetised costs

Costs to all operators

Familiarisation costs

All those operating under section 19 and 22 permits will face familiarisation costs as a result of the proposed policy option which will involve acquainting themselves with the new regulations. These costs will be fairly small per operator. We estimate that it will take the average operator half a working day - 4 FTE (full-time employee) hours - to familiarise themselves with the relevant law and guidance, given they have a degree of complexity. An estimate for the average hourly wage of an administrative employee (£12/hour⁶) has therefore been scaled up by approximately 20% to account for non-wage costs⁷ such as pension and insurance payments and this has been multiplied by the total number of community transport operators according to the permit data (6,300).

An individual operator of any size is therefore presumed to spend £56 on familiarisation.

This gives the overall costs to section 19 and 22 permit holders which is estimated to be approximately £350,000 in the first year of clarifying legislation and guidance. These are one-off costs which do not reoccur.

Costs to operators currently operating under section 19 and 22 permits who have to transition to PSV licensing

Some operators currently operating using section 19 and 22 permits will face additional costs from having to comply with 'the EU Regulation' and transitioning to PSV operator licensing. These include increased (PSV Operator) licence costs; MOT costs; Disability Discrimination Act (DDA) certification costs; service registration costs; and Transport Manager costs.

PSV Operator licence costs

A PSV Operator licence is more expensive than a section 19 or section 22 permit (see Table 5) but the licence covers all vehicles operated. Like a permit it has to be renewed every five years. An operator requires a disc for every vehicle in its fleet. The operator will require a licence to be held in each traffic area where they have an operating centre but they will need only one licence per traffic area. An operating centre is the base or centre at which the vehicle is normally kept.

There is no fee for: the grant of the licence, each vehicle disc, the grant of a variation and the five year continuation. These fees are now included in the vehicle test fees.

⁶ Average wage for administrative and secretarial positions from: ONS (2015) 'Annual Survey of Hours and Earnings'

⁷ Source: DfT WebTAG appraisal guidance

Table 5: Costs for different types of permit, 2016 prices, Government data⁸

Permit type	Service type	Cost, £
S19 permit	Community transport	£11.00 per vehicle
S19Large permit	Community transport	£20.00 per vehicle
S22 permit	Community transport	£55.00 per vehicle
PSV licence	Commercial service	£209.00 per operator

The costs for operators transitioning to PSV licences are calculated by multiplying the number of operators by the cost of a PSV licence. The costs of S19 and S22 permits (costs per permits multiplied by the number of vehicles) are then subtracted from the licence costs to get the net cost.

Working on the simplifying assumption that each permit operator only needs to be registered in one traffic area, an average micro-sized operator would pay an additional £13 a year to become PSV Operator licenced, compared to a large sized operator who could save up to £1,500, based on analysis of their assumed size of vehicle fleets. We predict that larger operators, by virtue of this cost not being calculated per vehicle, would experience a net benefit, from transitioning to PSV operator licensing.

To test the above assumption about traffic areas, alongside the consultation we propose to ask: *How many traffic areas is your organisation registered in?*

Table 11 illustrates the expected operator costs from transitioning from permits to PSV licensing, over a ten year period. We have assumed that a minimum of 5% of current permit holders transition from permits to PSV Operator licensing, providing an optimistic scenario whereby the new regime requirements may bypass all sector participants, apart from the largest, as our illustrative estimates indicate that 98% of the sector is made up of micro and small organisations (see table 4). We have chosen a maximum catchment of 50% as a pessimistic scenario, where all non-education and non-faith related organisations are in scope of the EU Regulation (see above). Analysis on this basis indicates the sector's costs could increase by between £4,000 and £440,000 per year over that appraisal period (2017-26).

Over a longer period, transitioning from permits to PSV licences will result in greater savings because unlike for permits, there is no fee for renewing a PSV licence.

We have not factored increases to the cost of varying PSV Operator licenses compared to permits because we do not believe our proposals will directly increase the likelihood of variation. Also, we do not have any data about how frequently permit holders currently may vary their services.

MOT costs

Vehicles operated under standard section 19 or 22 permits require a less expensive MOT than those operated under a PSV Operator licence. Therefore, if they have to transition to PSV licensing, Section 19 and Section 22 permit holders will face increased MOT fees.

Currently, section 19 and 22 permit vehicles typically need a Class IV (9-12 passengers) or Class V (13-16 passengers) MOT which can cost up to £60⁹. Due to a lack of evidence, it has been assumed that 50% of section 19 and 22 vehicles require a Class IV MOT and 50% require a class V MOT meaning that the average MOT cost per vehicle for Section 19 and 22 permit holders is estimated to be £58.

Vehicles operated under a PSV Operator licence need a Class VI MOT, costing between £103 and £211¹⁰ depending on whether the MOT is carried out by DVSA or an authorised testing facility (ATF). For

⁸ Source: Office of the Traffic Commissioner document 'Bus Registration and Bus Permits Scale of Fees' https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358498/Bus_registration_and_bus_permits.pdf

⁹ Source: Gov.uk MOT Costs <https://www.gov.uk/getting-an-mot/mot-test-fees>

¹⁰ Source: Public Service Vehicle Operator Licensing Guide for Operators 2007 http://www.transportfriend.org/pdf_files/pcv/psv-guidetolicensing.pdf

the purposes of this analysis, the midpoint of these values (£157) has been taken to represent the average cost of a Class VI MOT, due to a lack of evidence.

Vehicles adapted to carry seventeen or more passengers, used under a section 22 permit also have to be tested at Class VI however we do not have any idea how many vehicles fall into this category. Therefore we have conservatively assumed that no section 22 vehicles currently have to be tested at Class VI and so all section 22 vehicles affected by the policy change will face increased costs.

Table 6: MOT costs for different buses¹¹

Class of MOT	Type of vehicle	Cost per vehicle
IV (9-12 passengers)	Section 19 and section S22 permit-holders	Up to £57
V (13-16 passengers)	Section 19 and section S22 permit-holders	Up to £60
VI (9 or more passengers – PSV Operator licence operated vehicles, 17 or more passengers – in vehicles operated under section 19 or 22 permits)	PSV Operator licence holders and section 19 large bus permit holders	Between £103 and £211

As further illustrated in table 11, the increased MOT costs as a result of transitioning from permits to PSV operator licensing could be as low as £300 per year for micro operators with less than 5 vehicles or as high as £60,000 per year for very large operators with over 100 vehicles.

For standard section 19 and section 22 vehicles (adapted to carry 9-16 passengers), the additional MOT costs have been calculated by taking the difference between the average MOT costs per vehicle at present and the average MOT costs for PSV operators and multiplying this difference in costs by the number of vehicles affected.

These costs have been estimated to be between £90,000 and £915,000 per annum for the sector as a whole over the ten year appraisal period (2017-26).

Vehicles operated under a section 19 large bus permit already need Class VI MOTs and so will not face any additional MOT costs.

Disability Discrimination Act (DDA) Certification costs

Large vehicles (those which can carry more than 22 passengers) are required to be DDA certified if being used to provide a local bus or scheduled service but section 19 large permit vehicles are currently exempted from this requirement. The Public Service Vehicles Accessibility Regulations 2000 (PSVAR) requires certification so any operators providing these services who have to transition to PSV licensing will face costs to certify that their vehicles are DDA compliant. Section 19 standard permit vehicles will be too small to be in scope of this requirement and section 22 vehicles already have to comply with this, meaning that only section 19 large vehicles will be affected by these costs. The costs of DDA certification are £51 per vehicle¹².

Based on the 110 organisations using section 19 large bus permits, the total additional cost to the sector from DDA certification is estimated to be between £100 (if 5% of current permit operators face this cost) and £1,100 per year (if 50% of current permit operators face this cost).

Bus service registration costs

¹¹ Source: Gov.uk MOT Costs <https://www.gov.uk/getting-an-mot/mot-test-fees>

¹² Source: DVSA Policy Team

Section 2 (2) of the Transport Act 1985 defines local services as those carrying passengers at separate fares over short distances. The Act prevents local services from either carrying every passenger more than 15 miles in a straight line from where he joined the service, or having bus stops more than 15 miles in a straight line apart from each other. The route can therefore be any length, as long as passengers can get off within 15 miles (in a straight line) of where they got on.

Local Authorities are prohibited from contracting local services to section 19 permit holders, however section 19 permit holders who transition to PSV operator licensing could fall within the local services definition.

No data on how many section 19 permit operators may wish to register their services as local services if they were operating under a PSV operators licence is available, so we have assumed that no section 19 permit operators incur these costs.

Only section 22 permit holders currently providing local bus services will be affected by an increase in registration costs if they are required to transition to using the PSV operator licence regime. We have therefore assumed that all section 22 operators provide local bus services so the figures presented in the overall impacts therefore represent the maximum expected impacts from bus service registration costs.

Unfortunately, there is no data available on the total number of registered services operated under section 22 permits because Traffic Commissioners do not report this data. We have therefore applied the ratio of 2 vehicles to 1 service provided in the commercial sector, to the permits sector as a simplifying assumption.

We have calculated the service registration costs by multiplying the number of services which they run by the additional cost per service (£47 see table 7 difference between service registration costs for section 22 and PSV operator licensing). These costs are illustrated in Table 7 below. The overall additional service registration costs to operators as a result of the proposed policy are estimated to be between £100 and £1,100 per year depending on the number of section 22 permit operators who are affected by the policy.

To test the above assumption about how many permit holders are currently operating services that fit the characteristics of local services, alongside the consultation we propose to ask: *In a straight line from your starting point, do you carry passengers more than 15 miles in a straight line from where they joined the service, or have stops more than 15 miles in a straight line apart from each other?, and Which of the following permit/licence types do you operate using? [Followed by a list of permit types and a PSV Operator licence option],*

Table 7: service registration costs¹³

Type of permit held	Service registration costs
S19	Assumed nil
S22	£13 per service
PSV	£60 per service

Transport Manager Costs

A maximum of 50% of section 19 and section 22 permit organisations could have to appoint a Transport Manager to ‘effectively and continuously’ manage their transport activities, to meet the requirements of ‘the EU Regulation’. Transport Manager duties include: ensuring appropriate driver licensing is regularly checked; keeping drivers hours and working time records; and scheduling and keeping records of vehicle safety and preventative maintenance checks. Traffic Commissioners have set out guidelines for how many hours per week a Transport Manager should be working in an organisation, depending on the size of their fleet (see Table 8).

¹³ Source: Office of the Traffic Commissioner document ‘Bus Registration and Bus Permits Scale of Fees’ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358498/Bus_registration_and_bus_permits.pdf

Table 8: Traffic Commissioner Guidance for the number of hours per week that a Transport Manager should be working based on the size of the operator¹⁴

Number of vehicles managed	Guideline transport manager FTE hours (per week) needed
2 or less	8
3 to 5	15
6 to 10	20
11 to 14	25
15 to 29	40
30 to 50	40 (additional assistance may be required)

Any operator with an excess of 30 vehicles in their fleet will need to employ a Transport Manager full time but operators with fewer vehicles can share Transport Managers provided that a Manager does not oversee more than 50 vehicles in total.

It is possible that there will be already be some individuals within section 19 and 22 permit organisations who carry out the same functions as Transport Managers. For affected operators who already have employees performing the function of a Transport Manager, their only costs will be the costs of ensuring that these employees are correctly qualified through holding the Transport Manager CPC (TMCP) qualification. Based on a range of prices obtained when researching qualification provision, we assume that the cost of becoming TMCP qualified is approximately £1,500 per Manager needed.

If section 19 and section 22 permit holders who have to transition to PSV licences do not currently have a member of staff who performs the functions of a Transport Manager, they will have to hire a new employee to be their Transport Manager. The cost of employing a single Transport Manager full-time is estimated to be on average £30,000 per year by the Confederation of Passenger Transport (CPT) UK¹⁵. This has been scaled up by 20% to account for non-wage costs (in line with WebTAG guidance) giving an annual cost of employing a full-time Transport Manager of approximately £36,000 per year.

It is assumed that all operators less than 30 vehicles can share a Transport Manager with other operators and therefore only pay a fraction of their wages. We also assume that these shared Transport Managers will manage an average of 30 vehicles (although they can theoretically manage up to 50 vehicles) to reflect the likely inefficiencies when matching Managers to operators. Table 9 shows how many Transport Managers are assumed to be needed by operators who are affected by the policy change.

Table 9: Table outlining the potential Transport Manager costs faced by operators who have to transition to become PSV operators.

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Average number of vehicles	3	10	36	79	595
<i>If an operator already has employees who perform the functions of a Transport manager, their only costs will be the costs of ensuring that their staff are correctly accredited as Transport Managers:</i>					
Number of staff needed to be accredited as being Transport Managers	1	1	1	2	12

¹⁴ Source: Senior Traffic Commissioner Statutory Document No 3 – Transport Managers

¹⁵ Source: Advice from CPT UK

Total cost of ensuring that this member of staff is accredited	£1,460	£1,460	£1,460	£2,951	£17,524
<i>If an operator does not currently employ anyone who performs the functions of a Transport Manager, they will have to employ a Manager (but they can share the Manager's time and costs with other operators if they have less than 30 buses):</i>					
Shared Transport Manager?	Yes	Yes	No	No	No
Number of buses per Manager	30	30	50	50	50
Number of FTE Managers needed per operator?	0.10	0.21	1.00	2.00	12.00
Total cost of employing these Transport Managers (2017-26)	£35,668	£113,305	£356,677	£713,353	£4,380,199

We do not have any evidence as to how many operators have employees who are already performing the functions of the Transport Manager. We have therefore presented a range of costs wherever we have shown Transport Manager costs with the lower end of the range representing the costs if all operators were to simply train an existing employee who was effectively already working as a Transport Manager and the higher end representing the costs if all operators were to hire a new Transport Manager.

To improve our data about the impact of this requirement on permit holders, we propose to ask, *Does your organisation currently employ a Transport Manager(s) or any staff who carry out the work of a one such as ensuring appropriate driver licensing is regularly checked; keeping drivers hours and working time records; and scheduling and keeping records of vehicle safety and preventative maintenance checks?, Does that/those individual(s) have a Transport Manager Certificate of Professional Competence Qualification?, If not, would you expect that/those staff to need training before taking the Transport Manager Certificate of Professional Competence test or take the test immediately on the basis of their experience?*

For the purposes of our total cost calculations, we have taken the higher end of the potential Transport Manager costs (hence assuming that all operators would have to hire a new Transport Manager) although we think that it is very unlikely that the true costs would be as high as these.

An average micro-sized permit operator could face an increase of between £1,460 to £35,668 depending on whether they train an existing employee to become TMCPD qualified or employing a new Transport Manager. Employing a new Transport Manager will incur a rolling annual cost of £3,567. Due to lack of data, we have assumed that organisations who train staff to become TMCPD certified, will continue to pay those managers once qualified, as they did previously.

If the maximum of 50% of permit operators were to train their employee(s) to become a Transport Manager(s), it is expected that it would cost between £0.05m and £0.5m per year in total but if they were to all employ new Transport Managers (as has been assumed in the headline figures presented in this analysis), the total costs would be between £1m and £12m per year. This cost is the most significant potential cost to current permit holders who could have to transition to PSV licensing.

Costs to those currently operating under section 19 and 22 permits from having to comply with the 2007 Vehicle Drivers (certificates of Professional Competence) Regulations.

PCV Category D or D1 Licence Acquisition costs

In order to drive a Passenger Carrying Vehicle (PCV), drivers who are not operating under a permit who want to drive a minibus or large bus are required to have a category D or D1 entitlement on their

licences. These categories denote the type of entitlement required and depends on the number of passengers a PCV is able to carry and its weight.

We do not have data on the exact number of drivers working for permit holding organisations who currently have D or D1 licences so we have assumed that 50% of drivers have one of these licences and 50% do not. Therefore only 50% of drivers for permit holders who are affected by the policy (50% maximum) are assumed to face additional PCV licence acquisition costs.

To gain that data, alongside the consultation we propose to ask: *How many drivers in your organisation already hold category D or D1 licences?*

Gaining a PCV category D or D1 provisional licence is free but in order to apply for this licence, drivers must first have a medical check-up which we have assumed to cost approximately £50 to £170 per driver, based on DVSA advice. In addition, drivers will need to take modules 1 and 3 of DCPC in order to gain the D or D1 licence. Taking these modules costs around £170 per driver¹⁶. The overall costs of gaining a PCV licence are interlinked with those for a DCPC qualification and so are described below.

DCPC qualification costs

The worst case scenario for DCPC costs is that they could affect 50% of permit using operators.

The cost of the gaining a DCPC qualification is approximately £250 per driver¹⁷. However, if a driver already has a PCV entitlement, these costs will be reduced by £170 to around £80 per driver¹⁸.

In order to gain a DCPC qualification, it is likely that drivers will undertake some training. DVSA estimates that this may cost around £900 per driver however this has not been included in the overall impacts as it is not mandatory and because we assume that most of the drivers who apply for DCPC qualifications will already have substantial driving experience, including from their time working for permit holding operators.

To improve our assumptions about how many permit holders have a DCPC qualification we propose to ask: *How many drivers in your organisation already have a Driver Certificate of Professional Competence (DCPC) qualification? and*

If they don't already have it, would you expect your driver(s) to need training before taking the Driver Certificate of Professional Competence (DCPC) test or take the test immediately as they will already have a lot of driving experience?

The DCPC qualification lasts for 5 years after which drivers must have undertaken at least 35 hours of training in order to retain their qualification. The refresher training costs are approximately £5-£21 per hour¹⁹ meaning that total refresher training costs per driver are £460 over a 5 year period.

The current most prominent form of driver training undertaken by S19 and S22 permit holders is MiDAS training. DfT Community Minibus Fund applicant data suggests that at least 60% of drivers in the sector currently have this training. Due to a lack of information on the costs and prevalence of other forms of driver training in the sector, it has been assumed in the analysis that all drivers for permit holding operators are MiDAS trained. MiDAS training costs around £85 per driver or £800 to train an employee²⁰ to become a MiDAS assessor who can then train other employees for only the cost of the course materials (assumed to be around £10 because they are no proprietary textbooks). It is therefore assumed that all operators who have more than 11 drivers will train one of their employees to become an assessor because it is more cost effective. MiDAS training lasts 4 years and the cost of refresher training is approximately half of the original training costs - £43²¹.

¹⁶ Source: Gov.uk Driving Test Costs page <https://www.gov.uk/driving-test-cost>

¹⁷ Source: Gov.uk Driving Test Costs page <https://www.gov.uk/driving-test-cost>

¹⁸ Source: DVSA Policy Directorate advice

¹⁹ Source: DVSA Policy Directorate advice

²⁰ Source: Community Transport Association – Policy and Public Affairs Executive advice

²¹ Source: Community Transport Association – Policy and Public Affairs Executive advice

To improve our assumptions about the prevalence of MIDAS training, alongside the consultation we propose to ask: *How many drivers in your organisation already have a MiDAS qualification?*

The total DCPC costs are calculated by multiplying the number of drivers by the costs of becoming DCPC qualified minus the costs of being MiDAS certified.

Table 10: Summary of potential driver training costs

Type of Qualification	MiDAS training (external)	MiDAS training (in house)	PCV licence and DCPC qualification	DCPC qualification if D or D1 licence is already held
Course costs	£85 per driver	£10 per driver and £800 to train an employee as an instructor	£250 per driver plus cost of a medical check-up	£80 per driver plus cost of training if necessary
Total course costs	£85	£810	Between £300 and £420	£80
Qualification validity duration for	4 years	4 years	5 years	5 years
Costs to renew Qualification certification	£43 (approximately half of original costs)	£43 per driver (same as for externally trained drivers)	£175-£750 (35 hours of training needed at £5-£21 per hour)	£175-£750 (35 hours of training needed at £5-£21 per hour)

There is no data on the number of staff per operator so it has been assumed that half of the staff for each operator are drivers (which equates to over two drivers per vehicle). This is not based on any evidence but is thought to be a sensible assumption.

To improve our data about staff and driver numbers per operator we propose to ask consultees: *How many staff does your organisation employ?* and *How many drivers does your organisation employ?*

The information we are asking alongside the consultation and category D and D1 entitlement should improve our assumptions and assessment in the final Impact Assessment.

The costs of obtaining a DCPC for permit-holding organisations currently using MiDAS are estimated to be between £0.8m to £4.5m per year. This is based on the assumption that half of drivers in the sector already hold D or D1 licences and so will face reduced costs to become DCPC qualified. We do not have any evidence to support this assumption so we will look to test this during the consultation.

If we were to assume that section 19 and section 22 drivers currently did not have any formal training (rather than MiDAS training as is currently assumed), the costs would be between £0.9m and £5.4m per year.

However we believe that the majority of operators currently have MiDAS training. As per table 11, for micro operators with less than 5 vehicles, we estimate that these costs will be approximately £800 per year and for very large operators who have more than 100 vehicles, these costs could be as high as £72,000 per year.

It is assumed that there is a driver churn of 10% meaning that, each year, 10% of section 19 and 22 permit drivers leave the industry and are replaced by new drivers who will require driver training. This is a modelling assumption which we believe to be sensible but we do not have evidence to support this.

Non-monetised costs

Demonstrating “financial standing” by having a certain amount of funds available per vehicle they operate.

‘The regulation’ requires road passenger transport operators who do not fit into the exemptions in Articles 1 (4) (b) and 1 (5) have to demonstrate financial reserves according to the number of vehicles they operate. They must demonstrate funds equivalent to²² £7,645 (EUR 9 000) when only one vehicle is used and £4,247 (EUR 5 000) for each additional vehicle used.

This is not a direct cost to operators who are not exempt from ‘the EU Regulation’, but an entry requirement. Of the proportion who could be affected because they need to transition to a PSV Operator licence regime, we have no data about their capacity to demonstrate these reserves and therefore cannot monetise these impacts. If operators are unable to comply with these requirements, they may cease to operate which will impose a cost on society from reduced services.

PSV Operator licence costs notice periods

PSV operators are required to give the Traffic Commissioner at least 56 days’ notice of their intention to start a new service or to vary or cancel an existing one. For section 22 community bus operators who register ‘local bus services’, this period is only 28 days. The 22 operators who are reclassified as a result of this measure will therefore face some costs as a result of the longer notification period required. This has not been monetised as it is expected to be a relatively minor cost and because there is insufficient evidence as to what impact such a delay would have on operators using permits. Additionally, Traffic Commissioners have the discretion in certain cases to grant a shorter notification period to an operator if requested.

Costs of installing tachographs

PSV operators also have to install tachographs on their vehicles to monitor the hours clocked by their drivers unless the vehicle is being used to provide a regular service with a route of less than 50km. We have chosen not to monetise this because we do not have accurate cost data.

We will work with the DVSA to obtain data and illustrate the impact of this cost in the final Impact Assessment.

Costs of changing an operator’s legal status

Some operators who currently hold permits may not be eligible, in their current status, to hold a PSV operator's licence.

A section 19 permit may be granted to a body or a named individual on behalf of a body. A section 22 community bus permit may only be granted to a body. Sections 19, 20 and 22 of the Transport Act refer to ‘a body of persons, whether corporate or unincorporate’.

A PSV operator's licence cannot be granted to an unincorporated body or to more than one person jointly, except where allowed for by regulations. The regulations are the Operation of Public Service Vehicles Partnership Regulations 1986. The licence must therefore be held by a limited company, a named individual or by a partnership, referred to as a firm. The definition of ‘firm’ is in section 4 of the Partnership Act 1890.

²² In 2016.

Therefore, the body holding the permit may have to go to Companies House and register as a limited company, or form themselves into a legally binding partnership.

Some permit holders are already a limited company but limited by guarantee with no shareholders or dividend payments. These will not have to change their status as they are already incorporated bodies but there will be others who will need to change their status.

We do not have any data on proportion of the maximum 50% of permit organisations that this could affect, and so we have been unable to monetise these costs. This is something which we will ask about during the consultation.

Non-monetised benefits

Competition benefits

PSV operator-licence holders, who are currently competing with section 19 and section 22 permit holders, will benefit from fairer competition. This is very difficult to quantify as it is unclear to what extent commercial and permit operators are currently competing with one another and how much of a competitive advantage they gain from using permits.

Safety benefits

The need for section 19 and section 22 permit-holders to obtain a DCPC qualification should lead to some reduction in the number of collisions and incidents and thus increase safety for all road users. We do not have sufficient evidence on the benefits of both DCPC and MiDAS training and so we have not been able to monetise this benefit. We are liaising with the DVSA and the Community Transport Association to try and obtain more evidence which we may be able to use to monetise the safety benefits of DCPC and MiDAS. We will present this information in the final Impact Assessment after consultation.

Driver quality benefits

Research shows that bus passengers value good drivers meaning that driver training can affect passengers' journey quality²³. It is likely that the increased requirements for obtaining a DCPC qualification will improve the quality of drivers to a certain extent. This will have some positive impact for bus users which has not been quantified due to the lack of evidence on the benefits of a typical permit driver training course versus a commercial driver training course. Again, we will liaise with DVSA to search for additional evidence which may help us to monetise this benefit.

Reduction in accidental non-compliance

The proposed policy changes should make it easier for permit holders, permit issuers and enforcement agencies to know what the scope of obligations and exemptions are meaning that compliance and the ability to take enforcement action will improve, and the accidental misuse of permits through lack of knowledge will be prevented, as well as the potential cost of punitive action as a result. The risk to organisations contracting services from operators using permits to provide transport for vulnerable passengers, of those operators being found to have misused their permits and consequently those services being disrupted, will also be reduced. These impacts have not been monetised as we have no

²³ AECOM (2009) 'The Role of Soft Measures in Influencing Patronage Growth and Modal Split in the Bus Market in England'

evidence as to how significant a problem this currently is. It is unlikely that we will be able to monetise these impacts even following the consultation.

Expected impacts on average operators of different sizes

In order to show the effects on those operating using section 19 and section 22 permits of different sizes, the estimated impacts on an average operators of each size have been calculated. The typical characteristics for each size of operator (such as number of employees and number of vehicles) have been estimated using applicant data for the community minibus fund as shown in table 11. This table shows the estimated impacts on typical operators of different sizes who are affected by the policy change. These impacts have not been discounted so as to display the real financial costs to operators.

Table 11: The expected costs to current section 19/19L and 22 permit-holders of different sizes from complying with 'the EU Regulation' and transitioning to PSV operator licensing (over 10 years from 2017-2026, 2014 prices, undiscounted)

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Increase in PSV licence costs	£131	-£38	-£713	-£1,829	-£15,223
Increase in Transport Manager costs	£1,460 to £35,668	£1,460 to £113,305	£1,460 to £356,677	£2,921 to £713,353	£17,524 to £4,280,119
Increase in MOT costs	£2,811	£8,931	£33,303	£73,634	£557,611
DDA certification costs	£3	£11	£41	£91	£693
Bus service registration costs	£89	£284	£1,059	£2,342	£17,732
Familiarisation costs	£56	£56	£56	£56	£56
Total costs	£4,552 to £38,759	£10,704 to £122,549	£35,207 to £390,423	£77,215 to £787,647	£578,393 to £4,840,988

The most substantial potential cost to operators from having to transition to PSV operator licensing, comes from the requirement for passenger transport operators to employ a Transport Manager depending on the number of vehicles operated. The size of these costs will depend on whether the functions of the Transport Manager are already being performed by existing employees. If this is the case then the operators' only costs will be the costs of training their employees so that they can be DCPC certified. If however, nobody in their organisation is currently performing the functions of a Transport Manager, they will have to hire a new manager which will lead to far higher costs. As we do not have any evidence as to whether community transport employees are already performing the functions of a transport manager, we have conservatively assumed that all operators who have to transition to PSV operator licensing will have to hire new employees to work as managers for our overall impacts.

Table 12: The expected costs to current section 19/19L and 22 permit-holders of different sizes from obtaining DCPC qualifications (over 10 years from 2017-2026, 2014 prices, undiscounted)

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Increase in PCV/DCPC qualification costs	£8,036	£29,121	£81,263	£199,437	£717,764

The costs for individual operators to ensure that their drivers are DCPC qualified range from around £8,000 for micro operators to around £700,000 for very large operators, over ten years. The expected costs to average businesses of each size can be compared with their average reserves and incomes estimated in Table 3 in order to see whether and how likely it is that they would be able to pay these costs. This has been done in the table below.

Table 13: Expected total costs to the average operator compared to the estimated revenue and reserves of those operators

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Total expected costs for an average operator affected by the changes	£12,588 to £46,795	£39,826 to £151,670	£116,470 to £471,686	£276,652 to £987,084	£1,296,157 to £5,558,752
Estimated average income (2014 prices)	£94,000	£370,000	£1,500,000	£3,600,000	£10,200,000
Estimated average reserves (2014 prices)	£41,000	£160,000	£320,000	£590,000	£10,400,000

As would be expected, the estimated costs are far higher for a typical large operator than for a small operator. However, it is useful to compare the expected costs per operator to the expected income and reserves per operator. This comparison suggests that these costs may be challenging to cover for all but the largest operators.

Expected overall impacts

The size of the impacts of the preferred option depends on the number of organisations who face additional costs as a result of complying with 'the EU Regulation', transitioning to PSV operator licensing and obtaining a DCPC qualification. Three scenarios showing a realistic range of impacts are shown in Tables 14 and 15. In the scenarios, a percentage of operators with section 22, section 19 and section 19 large permits are assumed to require full compliance with 'the EU Regulation'. However, we expect significantly fewer section 22 drivers (compared to those using other permits) to be able to satisfy the '...for personal use' part of the DCPC exemption and consequently most will have to obtain a DCPC qualification. Therefore all section 22 permit holders plus an assumed percentage of section 19 standard and large; permit holders are assumed to be affected by the DCPC qualification costs in the three scenarios presented.

Table 14: Impacts on operators who have to transition to PSV licences as a result of the policy changes over 10 years (impacts from 2017-26, 2014 prices)

Scenario	Low	Central	High
Percentage of community transport operators assumed to be affected	5%	25%	50%
Total number of operators affected	313	1,567	3,134
Total number of vehicles affected	976	4,882	9,764
Familiarisation costs	£349,655	£349,655	£349,655
PSV licence costs	£40,178	£200,892	£401,785
Transport manager costs	£459,488 to £11,532,589	£2,297,440 to £57,662,945	£4,594,880 to £115,325,890
MOT costs	£914,997	£4,574,987	£9,149,974
DDA certification costs	£1,137	£5,685	£11,370
Bus service registration costs	£1,131	£5,654	£11,308

Total costs to bus operators	£12,839,688	£62,799,819	£125,249,982

For these impacts, the largest is likely to be the Transport Manager costs unless operators are already employing people who are performing the functions of Transport Managers (in which case the lower of the costs shown will be expected). The total costs to operators who have to transition to PSV licences as a result of the policy change is expected to be between £1.3m and £12m per year depending on the number of operators who are affected by the policy changes.

Table 15: Impacts on operators who have to obtain DCPC qualifications as a result of the policy changes (impacts from 2017-26, 2014 prices)

Scenario	Low	Central	High
Percentage of community transport operators assumed to be affected	5%	25%	50%
Total number of operators affected 2	567	1,764	3,134
Total number of vehicles affected 2	1,843	5,472	9,764
PCV/DCPC qualification costs	£9,992,657	£29,571,854	£54,045,851

For the driver training costs, it is likely that these will be between £1.0m and £5.4m per year depending on the number of operators who are affected by the policy change. The high scenario population assumed to be affected by this change includes all section 22 operators and some percentage of section 19 operators.

Overall the analysis suggests that this clarifying the legal and guidance position will lead to substantial costs to those operating using section 19 and section 22 permits, ranging from approximately £2.2m to £16.5m per year. The familiarisation costs for permit-holders will be the same in all scenarios but the PSV licence costs, DCPC qualification costs and Transport Manager costs could vary substantially.

RISKS AND ASSUMPTIONS

Number of organisations in scope

The biggest source of uncertainty in this analysis is the number of permit-users that will be affected. It is likely that most operators who currently use section 22 permits will have to ensure that their drivers are DCPC trained as a result of compliance. This has therefore been assumed to be the minimum population who will be affected by the additional DCPC costs. The percentage of operators holding section 19 standard and large permits who will incur additional costs from obtaining a DCPC is varied between the low central and high scenarios presented. For the PSV Operator licence and Transport Manager cost impacts, it is assumed that all section 19 permit holders are equally likely to be affected. This has been illustrated in the three scenarios. These therefore show a realistic range of impacts on section 19 given the substantial uncertainty around the number of those operating under a permit who will be affected by the measure. The high scenario for the impacts on operators who have to transition to PSV licensing represents the maximum potential impact of the policy as our analysis suggests that operators who are extremely unlikely to be affected by the policy change (such as schools and places of worship) make up at least 50% of the community transport sector.

Organisation characteristics

The characteristics for average operators of various sizes (including average number of vehicles, staff, reserves and income) have been calculated using data from Community Minibus Fund applicants. While these applicants are unlikely to be representative of the sector using permits as a whole (because they tend to be larger than the average permit operator), it is assumed that they are representative of the permit operators who are likely to be affected by transitional compliance costs. This assumption is felt to be reasonable given the lack of alternative evidence.

It has also been assumed that the Community Minibus Fund Applicants are representative of the Community Transport Association's membership. This is felt to be a sensible assumption given that members of both groups are likely to represent more the most engaged members of the overall sector using permits.

For simplicity, we have assumed that those operating under permits comply with the policy changes as their current permits expire and that these changes occur at a constant rate over time. This assumption is unlikely to have a major impact on the overall results of this analysis.

Driver training and staff

For the purposes of calculating the DCPC qualification costs in the counterfactual case, it has been assumed that all those operating under permits currently have MiDAS training. The Community Transport Fund database shows that at least 50% of operators in this database have MiDAS training at present. This assumption is a simplifying assumption as MiDAS training is the only non-DCPC training for which we have accurate costs. If it is assumed that operators currently have no driver training (which is very unlikely), the additional DCPC costs would increase by around 40%.

MiDAS training costs around £85 per driver²⁴ or alternatively an operator can pay for an employee to become a MiDAS assessor who can then train their drivers for just the costs of the course materials (assumed to be around £10 per driver, as materials are not proprietary textbooks). It is therefore assumed that all operators with more than 11 drivers will train an employee to be an assessor rather than train individual drivers. This reduces the counterfactual training costs and so is a conservative assumption. It is also assumed that the MiDAS refresher training costs are approximately half of the initial training costs based on market intelligence.

In order to calculate how many new drivers will have to obtain a DCPC qualification each year, it has been assumed that around 10% of all drivers leave the permits sector each year and are replaced with new drivers who have to be trained. This is felt to be a conservative assumption given the lack of evidence.

There is no data on the number of drivers using section 19 and 22 permits. It is therefore assumed that 50% of permit operator's staff are drivers. This equates to over two drivers per vehicle which seems reasonable.

Unless exempt from 'the EU Regulation', current section 19 and 22 permit holders will have to appoint a Transport Manager. They need 1 Transport Manager per 50 vehicles but can share their manager with other operators. It is assumed that operators with less than 30 vehicles will choose to share their Managers with other operators and thus will only have to pay a proportion of their wages. These shared Managers are assumed to oversee an average of 30 vehicles (although they could theoretically manage up to 50) in order to account for the likely inefficiencies of pairing Managers with buses.

Permit data source

The permit data used to calculate the overall impacts has been manually entered and could contain data entry errors and inconsistencies. This means that the analysis based on this dataset should be treated with caution. Only permit data for permits which have not expired has been considered but there are likely to be some errors in this filtered group due to the poor quality of the base data. This data is

²⁴ Source: Community Transport Association – Policy and Public Affairs Executive Advice

sufficient to give a good overall idea of the scale and makeup of the sector but figures taken from this data have been rounded to guard against spurious accuracy

Service registration

There is no data available on the number of services provided under section 19 and 22 permits because most do not need to be registered. The ratio of permits services to buses has therefore been assumed to be the same as the ratio between commercial bus services and buses. This assumption only affects the service registration costs which only affect section 22 operators.

PSV operators require licences for each area in which they operate. We do not have any information about the number of S19 and S22 operators who operate in multiple areas. We have therefore assumed that all PSV operators operate in a single traffic area only and hence only have to pay a single set of licence costs. As licence costs are not among our most significant costs, we consider this to be a reasonable assumption given a lack of evidence.

For service registration costs, there would be an additional cost for PSV operators who choose to vary their services. However, we do not have any information on how often permit holders vary their services and so it is not possible to quantify this impact. It is not expected that this impact would be very large compared to the overall service registration costs (which themselves are not very large compared to the other potential costs faced by permit holders who have to transition to a PSV licence).

Driver licensing

Drivers who already hold a D or D1 licence will not face PCV costs and will face reduced DCPC costs. We do not know how many drivers for permit holding organisations currently hold a D or D1 licence but are aware that some proportion do. We have therefore assumed that half of drivers in the sector already hold one of these licences. We will test this assumption during the consultation.

While DVSA recommends that drivers undertake training lessons before applying for their DCPC, we have assumed that they will not do so in the overall analysis for this policy. This is because it is not mandatory and most of the drivers undertaking DCPC will already have gained substantial driving experience from working in the community transport sector. Given the high potential costs from this training (which could be around £1,000 per driver, as shown above), we think that it is highly unlikely that operators will voluntarily incur these costs and so do not expect them to undertake this additional training.

SUMMARY AND PREFERRED OPTION WITH DESCRIPTION OF IMPLEMENTATION PLAN

Our preferred option is to fully align and clarify the relationship between EU law and UK law using minimum requirements for implementation, through secondary legislation, and the issue of refreshed guidance. Prior to this process, we intend to consult relevant stakeholders in order to get a better sense of the likely impacts of any policy change. This option represents the best chance of addressing both the legislative and non-legislative aspects of the problem. It combines the advantages of a legislative approach (clarifying the relationship between domestic and EU legislation), with the speed of non-legislative clarification of guidance and ensures that the permit sector's views on the above are heard. It also avoids gold plating.

Direct costs and benefits to business calculations (following OI30 methodology)

As defined in the Better Regulation Framework Manual (section 1.9.5), One-In, Three-Out (OI30) applies to all changes in, or introduction/removal/expiry of, measures that require RRC clearance. The direct incremental economic cost to business of the measure exceeds the direct incremental economic benefit to business so this policy would be an IN. However as the policy is to ensure compliance with EU legislation it is out of scope of OI30. The EANCB for this scheme is £8.1m and has been calculated in line with the guidance in section 1.9.32 of the Better Regulation Framework Manual (p46). Measures of

EU origin are Non-qualifying Regulatory Provisions (NQRPs) and therefore this policy will not score against the Business Impact Target (BIT).

Wider impacts

Economic / financial impacts

Competition Assessment

This policy should improve competition as it will ensure that commercial operators do not have to compete with those operating under permits who are gaining an unfair commercial advantage due to the less strict requirements for training, permits and managers which they face. It is possible that some of the operators who are reclassified as commercial operators will cease to operate but at the moment some are benefitting from an undue advantage over rivals.

Small and Micro Business Assessment

Table 4 suggests that the vast majority of operators in the community transport sector are small and micro operators (around 98%). The per operator impacts section shows the likely effects on small and micro operators. The definitions used for small and micro operators used in this analysis may not perfectly overlap with the standard definition for small and micro businesses as the definition used here is based on the number of vehicles rather than the number of employees. However this analysis should still give a reasonable indication of the likely effects of this policy on small and micro businesses. The analysis suggests that, while there will be an increased burden on small and micro businesses as a result of this measure, the same is likely to be true for other operators and so there is no undue burden on small and micro businesses. Given their estimated average revenues and reserves compared to their expected costs (in table 13) it is possible that small and micro operators may be better placed to cope with the costs imposed by this policy than medium and large organisations.

Consideration has been given to excluding small and micro businesses from the scope of the policy but, as this policy has to comply with EU legislation, this is not possible. We will use the consultation to further explore the likely impacts on small and micro businesses and to better understand the ways in which we may be able to mitigate these burdens.

The questions we propose to ask to ascertain the size of businesses and the likely impact of these proposals on them are:

On the basis of how we propose to define exemptions to Regulation 1071/2009 will your organisation fit into one or more of the exemption categories?

How much time do you believe members of your organisation will need, in order to familiarise with the new law and guidance?

On the basis of how we propose to clarify the scope of the exemption to the Vehicle Drivers (Certificate of Professional Competence) Regulations 2007, will your organisation fit into that exemption?

How many vehicles does your organisation operate using permits?

How many staff does your organisation employ?

How many drivers does your organisation employ?

Are any of your drivers paid more than out-of-pocket expenses?

Are any of your drivers unpaid volunteers?

How many drivers in your organisation already have a Driver Certificate of Professional Competence (DCPC) qualification?

How many drivers in your organisation already have a MiDAS qualification?

How many drivers in your organisation already have a hold category D or D1 licences?

If they don't already have it, would you expect your driver(s) to need training before taking the Driver Certificate of Professional Competence (DCPC) test or take the test immediately as they will already have a lot of driving experience?

Do you charge for your transport services?

If so, is the charge much less than the actual cost of providing the services?

Do you provide regular transport services?

Do you provide occasional transport services?

Did you gain any of your current work through tendering against non-permit holding organisations?

How many traffic areas is your organisation registered in?

Does your organisation currently employ a Transport Manager(s) or any staff who carry out the work of a one such as ensuring appropriate driver licensing is regularly checked; keeping drivers hours and working time records; and scheduling and keeping records of vehicle safety and preventative maintenance checks?

Is that person's employed under a contract?

Does that/those individual(s) have a Transport Manager Certificate of Professional Competence Qualification?

If not, would you expect that/those staff to need training before taking the Transport Manager Certificate of Professional Competence test or take the test immediately on the basis of their experience?

Does that individual perform another task within your organisation?

If so what is that other task(s)?

What proportion of that person(s) time is spent performing Transport Manager tasks?

This list of questions is not exhaustive.

Justice impact test

We expect there to be some burdens on the justice system from having to prosecute organisations who do not comply with the EU Regulation. However we do not expect this to be a significant problem and so would not expect these burdens to be large.

Environmental impacts

Greenhouse gas assessment

We do not expect there to be any significant impacts in this area.

Wider environmental issues

We do not expect there to be any impacts in this area.

Sustainable development

We do not expect there to be any impacts in this area.

Social impacts

Equalities impact

We do not expect there to be any impacts in this area.

Health and well-being

We do not expect there to be any impacts in this area.

Family life

We do not expect there to be any impacts in this area.

Human rights

We do not expect there to be any impacts in this area.

Rural proofing

It is possible that the proposed policy will have some impacts on rural services but we do not have the information to make an assessment of this impact at this time. We intend to use the consultation to

gather further information about the impacts of our proposals on rural areas by asking: *'Does your organisation provide services in rural areas under section 19 or 22 permits'*.

Post-Implementation Review Plan

This policy will ultimately require a full post-implementation review (PIR) in order to assess how effective the policy has been. However as the policy is currently at consultation stage, the details of this PIR have not yet been determined. We expect to review this policy five years after the date of implementation. We intend to implement this policy by Spring 2017 so we expect the PIR will be around Summer 2022.

We will include a more detailed PIR plan in the final stage impact assessment once the policy details have been finalised following the consultation process.