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Members Meeting

Tuesday 10 November 2021 at 10:30 - Via ZOOM

Present

Stephen Telling	UKCOA Chairman
Mark Anderson	Anderson Travel
Amy Baker-McCormack	Leoline Travel
Richard Bamber	Anthony's Travel
Jonathan Batchelor	Golden Tours
Jim Baxter	London Pullman
Blaine Betts	Coopers Tours
Peter Bibby	Bibby's of Ingleton
Ian Bishop	Alfa Travel
David Blake	Blakes Coaches
Pete Bovington	D J Coaches
Peter Bradley	Managing Director – UKCOA
Phil Breen	DVSA Earned Recognition National Account Manager
Jamie Brown	Princess Coaches
Peter Brown	Princess Coaches
Graham Cooper	Coopers Tours
Darren Curd	Wrightsure
Judy Dale	Royale European
Peter Evans	MET Coaches
Laura Great-Rex	DVSA Head of Enforcement Relationship Management
Charlotte Griffiths	South Mimms Travel
Nathan Hadley	Prospect Coaches
Tina Hailstone	Hailstone Travel
Paul Harnden	Chauffer Hire Coaches
Sam Hayes	
Ilir Hoxha	Big Ben Coaches
David Hull	Wrightsure
Steve Hursthouse	Real Coach Hire
Colin Inman	Chandlers Coach Travel
Laura Li	Membership and Administration Officer -UKCOA
Lennox Mackie	Mackie's Coaches
Khalid Mahmood	Phantom Travel
Anthony Marett	Marett's Chariots

Robert Marriott	Bayliss Executive Travel
Richard Matthews	Princess Coaches
Terry McIntyre	Golden Boy Coaches
Gavin Miller	DVSA Enforcement Policy Specialist
Darren Nash	Falcon Coaches (Herts)
Andy Palmer	A Palmer Associates
Sanjay Patel	Mazza Coaches
Neil Pegg	City Circle
Marc Preston	SBC Coaches
Sarah Reilly	Bliss Travel
Peter Rice	Southgate and Finchley Coaches
Elaine Scrivens	Southgate and Finchley Coaches
Val Sheppard-Evans	Longmynd Travel
Richard Slack	Slacks Coaches
Stephen Spiller	Centurion Travel
Richard Startup	York Pullman
Richard Telling	Falcon Travel (Surrey)
Ivan Thomas	Edward Thomas and Son
Robert Whelan	Corbel of London
Phil White	Gallaghers
Kevin Wilde	UKCOA Director and Vice-Chair
Andy Wing	Golden Boy Travel
Simon Wood	Alexander Plaxton

1. **Welcome and Apologies for Absence**

Apologies were received from:

Andrew Day	Wrightsure
Paul Flisher	Ready Tours Ltd
Del Haggerty	DH Team

2. **Stephen Telling** introduced **Gavin Miller**, Enforcement Policy Specialist (operator licensing and bus compliance) at the DVSA.

Gavin gave an enforcement perspective on S19 and 22 permits. They exist as an exemption from needing an O Licence for bodies that use vehicles for hire and reward on a not-for-profit basis.

The not-for-profit sector is quite broad. At one end there are organisations like local scout groups with volunteer drivers who operate on a non-regular basis, and at the other end there are some substantially sized community interest groups with large numbers of vehicles and drivers, often salaried, and then there are schools and day centres in between.

EU1079 2009 confers exemption from needing to hold a community licence (in the UK this would be the O Licence). The 3 exemptions are: main occupation; minor impact on the transport network and; non-commercial.

There are a large number of issuing bodies, which are set in legislation. Permits have to be

issued in accordance with the EU1079 exemptions but there is a lot of room for interpretation and there may be differences between issuing bodies. We have seen cases where an operator is refused a permit by one issuing body but is granted the permit by another body. The issuing bodies are not subject to enforcement – only the operators.

The main occupation is a straightforward exemption: e.g., transport is clearly ancillary to day centres and scout troops.

The minor impact exemption is applied through short distance. The DfT set a 10-mile limit, either from a central point, or between the first passenger boarding and the passenger alighting. A single operator could have multiple permit vehicles with different routes and this exemption is hard to enforce.

There was a judicial review in 2019 relating to the non-commercial exemption. It is for the issuing body to accept relevant evidence from the operator to substantiate the operation is non-commercial. The judicial review gave some indication of what might constitute non-commercial but no actual definition. It indicated that non-commercial and not-for-profit are not the same.

In enforcing non-commercial exemptions, the DVSA looks at various pieces of information, including checking financial records. This is one of the most difficult areas to enforce because it is not routine for the DVSA to get directly involved in the assessment of financial information. If an operator was called to a public enquiry the Traffic Commissioner would look into the finances.

Examiners make roadside checks at various locations including at schools. We look at:

- the driver's details including their licence entitlement;
- the operator and their eligibility to operate whether under an O Licence or S19/S22 permit;
- if they have a permit, which exemption they are operating under and check that that journey applies;
- the capacity;
- whether the correct people are the passengers e.g., a school vehicle driven by a teacher cannot carry the pupils' parents on a day trip;
- does the driver need CPC training – relates to the evaluation of non-commercial use;
- is the permit displayed and legible?

In effect, the drivers and operators under S19/S22 permits encounter the same scrutiny as vehicles operating under O Licences.

These types of offences can be rectified quite easily with a little bit of education and usually the operators want to comply. On the other hand, some operators set up a not-for-profit organisation specifically to avoid needing an O Licence. These operators are avoiding the need for tachographs, which is not good for road safety, and these instances are dealt with accordingly.

Despite having some excellent information and targeting approaches, the DVSA is reliant on people reporting potential offenders. However, once a case is ongoing it cannot be discussed and details of any hearings are not made public. Even if things may appear quiet action is being taken.

There will remain a need for S19/22 permits but greater oversight is also needed. What could be changed in future:

- Fewer issuing bodies;
- A public register of issued permits;
- Different coloured discs for the different exemptions;
- Harmonise the application process with O Licences and issue permits for a maximum number of vehicles instead of each individual vehicle.

Gavin Miller then took the opportunity to discuss PSVAR briefly. At the beginning of September DVSA Examiners went out on an educational mission to coach terminals, pick up points and operators' premises to talk to drivers and other staff. The goal was to make them aware of their obligations under PSVAR when undertaking scheduled services with coaches. Gavin thanked all operators who had vehicles stopped or visits to their depots.

In a week just under 400 vehicles were encountered and only four were non-compliant. This was mostly drivers who did not know how to operate the equipment properly. The exercise was well received with some great feedback from drivers. It was good to go out in an educational capacity rather than with an enforcement stick!

General discussion centred around private independent schools taking work away from operators. **Stephen Telling** said that a S19/22 permit doesn't allow private school with charitable status to pick up pupils with their own minibus and charge fares. That is commercial work and an O Licence is required.

The issue is financial status. S19/22 permits can include hire and reward and there is no mention of direct fares. But directly making a profit and not putting that money back into the transport budget might be a breach. The DVSA would investigate any individual cases it was made aware of. **Gavin Miller** added that if a school decides to carry its own pupils the Traffic Commissioner might see that they are seeking to lower their own operating costs. It is difficult to say they are taking work away from operators when it is their own work.

Stephen Telling commented that we thought that S19/22 permits were for charitable purposes, carrying disabled passengers, for example. The situation is that now schools have latched onto charitable status and are running fleets of vehicles and drivers without having to comply with any of the same legislation and rules that apply to coach operators (like CPC training) and they are making a profit. It is not a level playing field. The schools are taking advantage and it almost seems like nobody wants to deal with the issue.

Gavin Miller agreed with all but the last point. The DVSA does want to help but is restricted by the law. As it stands what the schools are doing is legal. Even if the DfT were willing to consider a change in legislation the difficulty would be that there would need to be a benchmark, between the smaller local groups like scouts and the larger community interest

groups, for what bodies are deemed fit to use permits and which aren't.

Gavin Miller urged people to report any schools who might be breaching the rules. Reporting is strictly confidential and can be done by email at enquiries@dvsa.gov.uk or by phone on 0300 123 9000.

Simon Wood mentioned that getting vehicles converted in time for the end of the derogation is going to be a problem. Plaxton is fully booked until next summer and their priority is converting new stock. There is also a global shortage of parts. A further extension would give operators time to comply.

Gavin Miller stated that the UKOCA's concerns have already been passed to DfT colleagues and it looks as though they are being taken on board. Plaxton's feedback as a manufacturer is very useful and Gavin will pass it on as well.

Stephen Telling talked about the cost of converting or buying new vehicles. Nobody is willing to lend finance and it will be difficult for operators to find the money all in one go.

Mark Anderson looked forward to what will happen when the derogation ends if an operator does not have complaint vehicles. What enforcement action would be taken if an operator was waiting in the outcome of a legal case. **Gavin Miller** confirmed that any action taken would have to be proportionate. The DVSA would look at:

- Was a wheelchair user inconvenienced (99% of the time there are no wheelchairs users using these services);
- It would not be subject to prohibition – a prohibition notice would not be issued to the vehicle while in service;
- All that would happen is the driver and/or operator would be reported to the Traffic Commissioner

Gavin Miller clarified that the DVSA would probably report a long-distance service where somebody in a wheelchair could turn up and go. If it is a private service and the operator knows their passenger audience it would be looked at a little differently and on a case by case basis. **Stephen Telling** added that the industry is compliant on long distance services and that the issue remains with home to school services.

Steve Spiller underscored that only four non-complaint vehicles out of 400 is evidence that the industry fully understands the requirements for scheduled services. He commented that Baroness Vere made it publicly known that, we as an industry, should have been aware of PSVAR requirements for scheduled school services since 2000. Despite trying to keep up to date we missed this until it was brought to everyone's attention in 2018. How many vehicles have been reported to the Traffic Commissioner since the ruckles came into force? **Gavin Miller** stated that a Freedom of Information request should be submitted, which can be done via the OTC: TCFOI@otc.gov.uk

Steve Spiller said that he was operating a home to school route and wasn't aware that the

school was taking a contribution from the parents until quite some time after the contract was let. **Gavin Miller** advised all operators to investigate possible payments as part of their due diligence to avoid getting into trouble down the line.

Stephen Telling thanked **Gavin Miller** and introduced **Phil Breen**, Earned Recognition National Account Manager at the DVSA.

Phil Breen started by saying the industry asked if I'm doing what I'm supposed to be doing why am I being judged the same as non-compliant operators? The Earned Recognition scheme is a way to take the focus off the negative. This frees up resources and makes enforcement more cost-effective.

Resources are targeted at the serious and serially non-compliant. Continual targeting disrupts them and can result in their vehicles being taken. Suddenly it is not so cost-effective for them to be non-compliant.

A copy of **Phil Breen's** presentation is attached. The links he mentioned are below:

[DVSA earned recognition: join the scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/dvsa-earned-recognition-join-the-scheme)

[Apply to join DVSA earned recognition or add extra modules - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/dvsa-earned-recognition-apply-to-join-or-add-extra-modules)

[Guidance overview: Find a DVSA earned recognition auditor - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/dvsa-earned-recognition-find-a-auditor)

[DVSA earned recognition: guide to the scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/dvsa-earned-recognition-guide-to-the-scheme)

[DVSA earned recognition - YouTube](https://www.youtube.com/watch?v=...)

The Earned Recognition Team can be contacted via DVSAER@dvsa.gov.uk

Phil concluded by saying that if you join the Earned Recognition scheme you are freeing up resources to go after non-compliant operators.

Tina Hailstone mentioned that there is already an array of different software needed to run the business. Would this require yet another package? **Phil Breen** said the DVSA will work with an operator to see what is already in place and what they will need.

Richard Startup said York Pullman have just achieved Earned Recognition in the last few months. It has made them look at what they need to focus on and what they can stop doing. They have found it very beneficial.

Peter Rice asked about the repercussions if an operator applies to the scheme and fails the audit. **Phil Breen** stated that very few operators do fail an audit, but failure stays with them and is not passed to the DfT. The best advice is to get an application in as soon as possible and the DVSA will work with an operator to help them pass the audit first time.

Robert Whelan queried how an operator maintains the blue exemplar status. Once an

operator achieves exemplar status it keeps that status for as long as it remains in the scheme unless it continually fails to meet the standards. Monitoring is done through KPIs.

Robert Whelan also asked about the costs of being in the scheme. The only costs are for the software.

Andy Palmer asked if new operators can join the scheme. Phil Breen confirmed that operators need to hold an O licence for 2 years to earn exemplar status but recommended early engagement with the DVSA during that initial period.

Stephen Telling thanked **Phil Breen** and introduced **Laura Great-Rex**, Head of Enforcement Relationship Management at DVSA.

Laura Great-Rex spoke about the growth of the Earned Recognition scheme, encouraging operators to join. The RHA and CPT have a seat at DfT board meetings. Laura thought it might be possible for the UKCOA to also be invited, which **Stephen Telling** welcomed.

Stephen Telling thanked all 3 speakers for their valuable input. He suggested making it an annual meeting in future.

3. **Minutes of last meeting 20 October 2021, and any Matters Arising**

Stephen Telling apologised for not being at last month's meeting. Minutes agreed with no amendments. No matters arising.

4. **PSVAR – Update**

Stephen Telling reported two major steps this week.

1. There was a meeting of the All Party Parliamentary Group for Road Passenger Transport at Westminster Hall on 9 November. Baroness Vere was unable to be present. However, Peter Bradley wrote a question direct to Baroness Vere re PSVAR and next steps on the derogation. Lord Peter Snape (who co-hosts the APPG meetings) has passed the question on, asked Baroness Vere to reply within 14 days and asked us to let him know if we don't get a response.

We have been writing to the DfT twice a week for the past few weeks to try and move this forward.

2. Stephen Telling has written to Sir Peter Hendy, Chair of Network Rail, who has a stake in PSVAR from the angle of rail replacement. He is hoping to have a meeting with him in the next few weeks.

We are continuing to put pressure on as we are less than 5 months away from the end of the derogation.

5. **Driver Academy – Update and next steps forward for the Association**

Mark Anderson has taken on a lead role, together with **Del Haggerty**, on the Driver Training Academy. He will take the initiative forward and investigate what help is available and what

the benefits could be. It does mean an investment from operators and there may be challenging conversations with insurers, but it will be worth it. Although the driver situation might not be too bad now, recruiting and training our own drivers will safeguard the situation 5 years from now. Mark will report back as things progress.

6. **New Members and Membership Drive**

New members are needed to inject funding into the UKCOA, both to finance member initiatives and keep subs at reasonable levels. Peter Bradley mentioned that there were guests attending the meeting today and we would be delighted if they join.

7. **2022 Meeting Programme**

The Board meeting highlighted that Wednesday is not a good day for members meetings. All were in agreement that Tuesday is a better day. **Peter Bradley** to send out new dates in due course.

8. **Website**

All the passwords have now been issued for the members' section of the website. This gives access to Crisis Control information and Compliance & Operational Updates amongst other things. **Laura Li** continues to work on bringing the website up to date.

9. **Any Other Business**

A number of clean air zones have recently been announced following COP26. **Stephen Telling** mentioned Manchester, Portsmouth and Bristol. Grants are available in Portsmouth. The board will look into what other grants are available for trapping certain vehicles, in particular Euro V.

There are delays at the DVLA. **Tina Hailstone** sent in a licence application in September and has heard nothing. **Stephen Telling** had a medical 6 weeks ago and has also heard nothing. There is no way to get in touch with them. **Peter Bovington** reported that Backhouse Jones say you cannot drive unless you have proof that the DVLA has received your application or a S88 letter from them. **Peter Bradley** will write to the DVLA about driver licensing and ask if there is a way for us to contact them.

10. **Date of next meeting**

Wednesday 8 December at 10.30

Presentation from ITT Hub – Mark Griffin, Chief Executive Officer.