

FUTURE OF TRANSPORT REGULATORY REVIEW



THE UK GOVERNMENT RECENTLY ISSUED A NUMBER OF CONSULTATIONS AS PART OF ITS FUTURE OF TRANSPORT PROGRAMME. TRANSPORT IS GOING TO RAPIDLY CHANGE IN THE NEXT DECADE, WITH ELECTRIFICATION, DECARBONISATION AND AUTOMATION DRIVING THE DEVELOPMENT OF NEW MODES OF TRAVEL.

Regulation needs to keep up, so the Department for Transport recently issued a number of consultations on regulations governing [zero emission vehicles](#), [modernising vehicle standards](#), [future of flight](#), [regulatory sandboxes](#) and [maritime autonomy and remote operations](#). We take a look in more detail at the vehicles and flight proposals.

ZERO EMISSION VEHICLES

The government has pledged to phase out the sale of new combustion engine cars and vans by 2030. The Office of Zero Emission Vehicles (OZEV) are consulting on whether to introduce measures to ensure there is sufficient charging infrastructure and appropriate consumer protections to meet the needs of a transition to electric vehicles (EVs) – in particular for the 8 million households who are unable to install home charging apparatus.

The areas OZEV are looking to introduce are:

STATUTORY OBLIGATION TO PLAN FOR AND DELIVER CHARGING INFRASTRUCTURE

Currently, the deployment of charging infrastructure is largely left to market forces and the private sector (or the discretion of Local Authorities). This results in charge points being rolled out in areas that make economic sense (a charge point operator would make revenue from selling power to a sufficient number of drivers which outweighs the capital investment in connecting the chargepoints to the grid). But other areas are left unserved.

OZEV are considering introducing legislation to mandate that Local Authorities must plan for the deployment of EV charging infrastructure in sites which are currently considered 'areas of low demand' by the private sector, as these will soon be subject to higher demand as the population shifts to adopting EVs.

In the alternative, OZEV are looking at placing the duty on the private sector, by obliging chargepoint operators (CPOs) or energy companies to plan for the future deployment of chargepoints in areas currently experiencing lower demand.

NON-RESIDENTIAL CARPARK CHARGEPOINTS

EV's don't need to drive to a dedicated filling station to recharge. They can charge wherever they are parked, as long as there is a chargepoint there. Building on the 2019 consultation on proposals to require new residential and non-residential premises with parking to include a minimum number of chargepoints (see our article [The Road to Net Zero](#)), OZEV are seeking to oblige the owners of private car parks to install a minimum number of charge points. It is likely that this will only apply to car parks containing a minimum number of spaces. Such powers would apply to both existing and new, public and private (e.g. workplace) car parks.

We have already seen collaborations between owners of large car parks (e.g. NCP, TCS and the supermarkets) teaming up with CPOs to install EV chargepoints at sites. So, whether this power would need to be used is questionable – again it would be more likely to be used in areas where there is lower demand currently for EV charging.

OZEV will have to identify the most suitable authority to enforce these powers. Initial proposals include the local 'Weights and Measures authorities' (a body tasked with enforcing weights and measures legislation and product safety standards) and Local Authority Building Control departments (governing building standards).

ESTABLISHING THE RAPID CHARGING FUND

OZEV are consulting on the establishment of a £950 million Rapid Charging Fund to help make funding available to support the deployment of an EV charging network. (This is not a new idea. We wrote about this back in July 2020 when it was announced as £500 million fund – see [The Rapid Charging Fund and the Government Vision for the Rapid Chargepoint Network in England](#).) The fund's purpose remains the same – advancing the deployment of EV charging infrastructure at service stations on motorways or significant A-roads.

Interestingly, there is a [Competition & Markets Authority investigation](#) into the intended recipients of such funding, as many service station operators have entered into exclusivity arrangements with CPOs for their EV chargepoint offering. As such, OZEV is consulting on powers to make such exclusivity arrangement null and void, forcing service station operators to offer multiple options for charging solutions.



IMPROVING CONSUMER EXPERIENCE

OZEV are already introducing regulation to impose minimum standards for reliability of chargepoints and ensure contactless payments at chargepoints (without the need for a loyalty scheme membership), but it is looking to broaden out the protection for the consumer. In doing so, OZEV are looking to ensure that:

- Chargepoints are inclusively designed to ensure accessibility for all and exclude discrimination. The chargepoints should also offer a consistent user experience (much like the fact a petrol pump works in the same way no matter where you re-fuel).
- Consumers feel safe when charging on route. This is likely to include requiring minimum lighting levels at chargepoints (whether provided by existing street lighting or new lighting provided by the CPO) and weatherproofing or shelter.
- Consumers have rights to redress if something goes wrong. It is not clear whether they intend this to be direct redress against the CPO or otherwise, but OZEV envisage their powers to include obtaining financial redress for consumers, and penalties payable by entities in breach of the requirements. They are likely to be considering some form of Ombudsman.

MODERNISING VEHICLE STANDARDS

Part of the government's Future of Transport consultation intends to pave the way for a national framework relating to the regulation of vehicles, including autonomous vehicles. In response to the Law Commission's call for an authorisation process before autonomous vehicles are permitted on the UK 's roads, the DfT is seeking to review the adequacy of existing UK and EU legislation and identify where this needs to be amended (or repealed and replaced) to allow for the introduction of future vehicle technology.

The current Road Traffic Act 1988 is not adequate to deal with the future vehicle technologies we envisage today as it was not implemented with these in mind.

The consultation separates out the government's plans around automated and connected vehicles into four sections. They all relate to the introduction of minimum requirements and appropriate enforcement safety and security, including new offences for tampering with the technology of vehicles intended for use of the road as well as non-road mobile machinery.

The goal of the government is to allow a "flexible, proportionate and responsive" approach to the introduction of low emission vehicles – allowing the Secretary of State for Transport to issue new regulation and guidance as technologies emerge.



FUTURE OF FLIGHT

Part of the regulatory review is a consultation on the future of flight. This complements the recent Jet Zero consultation (see our blog for Greener Transport Solutions, [Jet Zero: Pie in the Sky?](#)) which stated an ambition for the UK to be at the forefront of developing and deploying new zero emission flight technologies and an aspiration to have zero emission routes connecting the UK by 2030.

The review considers the legislative changes needed to accommodate the new or novel aircraft¹, with a focus on safety, security, unified traffic management (UTM), airspace, noise, and infrastructure.

SAFETY

Recognising that new and novel aircraft may operate differently to traditional aircraft, it is necessary to re-consider the established approach to all aspects of safety and risk management, including airworthiness, maintenance, operation, air traffic management, pilot licensing and training.

Regulatory change may include new licensing models, maximum levels of alcohol while flying an unmanned aircraft and insurance requirements for new and novel aircraft.

SECURITY

To ensure security (both physical and cyber) of individuals, businesses, markets and the UK as a whole, the legislation needs to include appropriate restrictions, offences to address any misuse of new technology, data and privacy requirements and powers for the police.

UTM

New and novel aircraft will increase the level of air traffic, and these must be safely integrated into the existing system of centralised air traffic management. UTM is the UAS (or drone) traffic management concept developed at an international level to support real-time or near real-time organisation, coordination and management of drone operations. UTM services could be provided by licenced and regulated service providers and the Government is currently considering what regulatory powers and requirements are needed to enable UTM in the UK.

AIRSPACE

The Government's Airspace Management Strategy, which created the framework for making airspace use more efficient and sustainable, is being reviewed to facilitate the integration of new and novel aircraft into the airspace in a safe, secure and sustainable way.

NOISE

In order to understand the noise implications of the new technology, data will be collected from different forms of this aircraft at different phases of flight. Government will then consider whether to set locally enforced airport noise limits or to impose standards applicable to aircraft themselves. This is particularly relevant since new forms of aircraft may fly at low levels and more regularly.

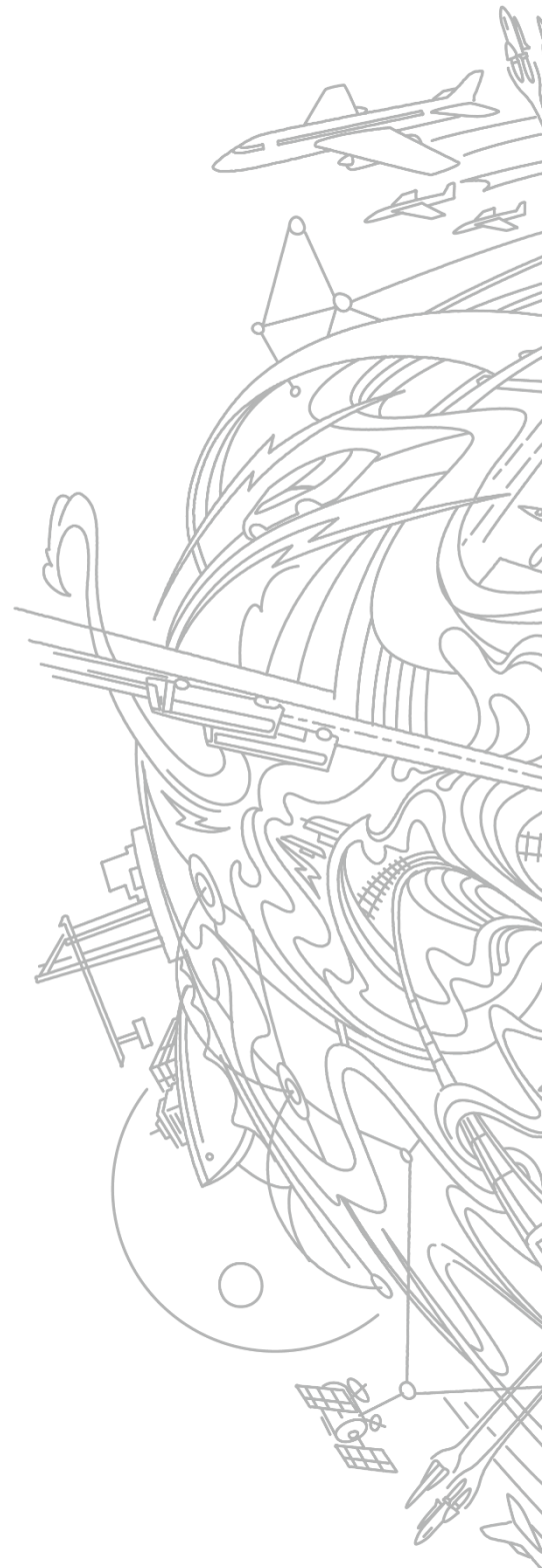
INFRASTRUCTURE

To ensure that all required infrastructure (including digital infrastructure) is in place, there may be changes to planning legislation, air space design and information sharing legislation.

USE CASES FOR NEW AND NOVEL AIRCRAFT

Views are being sought on the main use cases for new and novel aircraft and how to deliver these over the next 5 years.

¹ This includes any aircraft, crewed or unmanned, that performs a function not currently covered in legislation or regulation.



REGULATORY SANDBOXES

As part of the Future of Transport regulatory review, feedback is also sought on the use of regulatory sandboxes. These are defined spaces for testing new business models, technology and policy in a safe way. Regulators oversee these initiatives and provide guidance, exemptions and support to innovators.

The CAA has previously used sandboxes including:

- BVLOS Challenge – exploring the viability of BVLOS operations in non-segregated airspace.
- Future Air Mobility Challenge – looking at the requirements for regulatory approval of new ways to transport passengers and goods by air including using new aircraft designs and integrated transport networks.
- Detect and Avoid Challenge – investigating technology that can be used as part of Detect and Avoid solutions for BVLOS operations.

The consultation notes that there is a need to define clear roles and responsibilities for the regulator in order to support the success of sandboxes, and that it is expected that local authorities will also take a leading role in managing activities due to the location specific nature of sandboxes. Whilst the CAA has led a number of sandboxes there is no central regulator for surface transport sandboxes yet.

Feedback is sought on: what those roles and responsibilities within a sandbox are and how that should be managed; views on data sharing arrangements and partnerships between government and innovators; and what additional powers may be required to support these activities.

NEXT STEPS

The consultations close on 22 November and the government will respond in due course. Ultimately, new laws may be needed. These will take time to implement but the government will continue to engage with the transport industry in the meantime.

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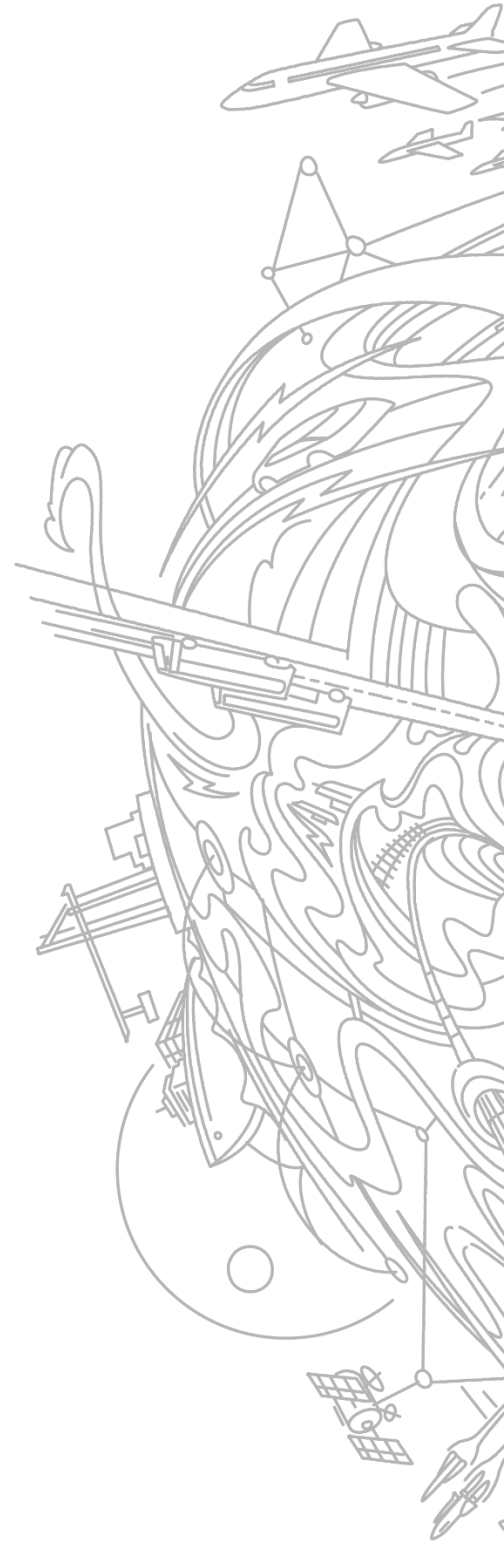
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