



Law Society
of Scotland

Consultation Response

Future of Transport Regulatory Review

July 2020



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Mental Health and Disability and Environmental Law sub-committees welcome the opportunity to consider and respond to the Department of Transport consultation: *Future of Transport Regulatory Review Call for Evidence*.¹ We have the following comments to put forward for consideration.

General Comments

We consider that the issues raised in the consultation are important for the regulatory aspects of possible decarbonisation of transport, particularly in urban areas where these matters are significant in the context of easing congestion and modal shift to low carbon travel including for 'last mile' transport. The matters addressed are relevant in the context of the return of individual and business 'footfall' to city centre areas while public transport services remain impacted by Covid-19, for example, by social distancing measures and a reduction in services. The matters addressed in the consultation may help to ensure that the significant work undertaken in relation to modal shift is not undone as a result of the impacts of Covid-19 on transport services, and address some of the potential challenges associated with increase car travel which could result.

We note the Principles which will underpin as far as possible the Government's approach in facilitating innovation in urban mobility for freight, passengers and services.² We note in particular Principle 2, which states that "*The benefits of innovation in mobility must be available to all parts of the UK and all segments of society.*" In our comments, we have sought to address and highlight areas where we are concerned that the rights of those with disabilities may not be adequately protected. In doing so, we would make the following general comments:

¹ <https://www.gov.uk/government/consultations/future-of-transport-regulatory-review-call-for-evidence-on-micromobility-vehicles-flexible-bus-services-and-mobility-as-a-service>

² *Ibid*, page 7

1. No mode of transport or transport service should be permitted if it reduces access to any facility or service providing mobility for any category of persons (including but not limited to people who have disabilities of any kind).
2. In introducing modes of transport or transport services close attention should be paid to the principles of universal design and inclusivity so as to be accessible to all persons (including but not limited to persons with disabilities of all kinds) as far as possible. Where full accessibility and inclusion is not immediately achievable, however, a new mode of transport or transport service may be introduced if it nevertheless to a significant extent enhances accessibility and inclusion, including by increasing available capacity in existing accessible modes of transport or transport services by increasing the range of modes or transport and transport services available overall.
3. The application of comments 1 and 2 should take account of the effects of communication difficulties and cognitive impairments of all kinds, including in relation to the ways in which use of modes of transport or transport services can be arranged.
4. No mode of transport or transport service should be introduced if and to the extent that it makes any public place or public space less accessible or less safe for any person with any kind of disability; or if it causes or increases reasonable fears as to safety for any persons with disabilities.
5. The fundamental starting-point of the consultation is flawed, and should be re-orientated. It concentrates on the modes of transport or transport services, rather than the physical and other environments in which they will feature. The starting-point should be to determine the physical and other environments into which such methods would be introduced; to determine the extent to which they could be introduced in ways that comply with the preceding comments without adaptation of those environments; and to determine what adaptations would be necessary.
7. Obesity is a major public health issue in the UK.³ There should be robust requirements to ensure that micromobility vehicles are not used in ways that in overall effect will increase the effects of such public health issues. We therefore note and welcome Principle 3, which states that *“Walking, cycling and active travel must remain the best options for short urban journeys.”*
8. We note and welcome Principle 5, which states that *“New mobility services must lead the transition to zero emissions.”*

Our further comments below are made in the context of the above general comments.

³ <https://www.nhs.uk/conditions/obesity/>

Consultation Questions

Question 2.1

Do you think micromobility vehicles (such as those in Figure B) should be permitted on the road? Please explain why.

As referred to above, we note the potential environmental benefits of such vehicles in easing congestion and supporting the modal shift to low carbon travel.

However, it would appear that for micromobility vehicles to be permitted anywhere to an extent that would make them viable, substantial physical alterations will be necessary. Micromobility vehicles have the potential to be hazardous or potentially hazardous to users of shared road and walkway spaces, including in particular people with physical, sensory or cognitive impairments. The safety of both the vehicle user and all road and walkway users needs to be carefully considered. Traditional division of routes into pavements and roadways, or even pavements, cycle lanes and roadways, clearly will be inadequate. Such vehicles can also cause difficulties where parked or stored outwith designed areas in urban areas.

Questions 2.2 and 2.3

We have no comments to make.

Question 2.4

a. In your opinion, which of the following micromobility vehicles should be permitted, if any, on roads, lower speed roads, and/or cycle lanes and cycle tracks?

- All types
- Electric scooters
- Electric skateboards
- Self-balancing vehicles
- Electrically assisted cycle trailer
- Segway
- Other (please specify)

b. Please explain your choices for using micromobility vehicles (or not) on roads and/or only lower speed roads, providing evidence where possible.

c. Please explain your choices for using micromobility vehicles (or not) on cycle lanes

and tracks, providing evidence where possible.

d. What impact do you think the use of micromobility vehicles on cycle lines and cycle tracks would have on micromobility vehicle users or other road users?

See our comments at 2.1, above. Micromobility vehicles have the potential to be hazardous or potentially hazardous to other cycle lane and cycle track users, including in particular people with physical, sensory or cognitive impairments. Certain micromobility vehicles may be wider than pedal cycles. Existing regulations and guidance on dimensions for cycle infrastructure would need to be reviewed. In some cases, and in line with the Government's Principles noted above, it may be necessary to restrict traditional vehicle access to enable safe and efficient use of micromobility vehicles alongside cycles.

Question 2.5

Mobility scooters and pedestrian operated street cleaning vehicles are already permitted on the footway. Should any other micromobility vehicles be permitted to use the pavement or pedestrian areas? If so, which types of devices should be permitted and in what circumstances?

See our comments at 2.1, above. Micromobility vehicles have the potential to be hazardous or potentially hazardous to other footway users, including in particular people with physical, sensory or cognitive impairments. However, we also note the potential benefits to disabled and/or older people of micromobility vehicles used as mobility aids being permitted to use pavements or pedestrian areas. We agree that in certain circumstances, and subject to appropriate safety measures, this may be appropriate. In particular, we would suggest that a lower speed limit for micromobility vehicles used on pavements or pedestrian areas may be appropriate. We are concerned that vehicles travelling at the proposed maximum speed suggested elsewhere in the consultation document of 12.5-15.5 miles per hour may pose a significant risk to pedestrians, in particular those with physical, sensory or cognitive impairments.

Question 2.6

a) What do you think the minimum standards for micromobility vehicles should be?

See our general comments regarding the principles of universal design and inclusivity.

b) Should different standards be set for different types of micromobility vehicle? Please provide evidence.

We have no comments to make.

Question 2.7

Are there other vehicle design issues for micromobility that you think we should be considering? Please provide examples.

We have no comments to make.

Question 2.8

In your opinion, what should the requirements be for micromobility users, with regard to: [table]

If you believe regulating micromobility vehicles like EAPCs or like mopeds would be problematic, please explain why.

We don't seek to make any particular comments about the manner in which user requirements are set.

We consider that a range of safety matters require consideration, including:

- Any presumptions of liability between road users and pedestrians;
- Safety measures for individual users – for example, compulsory helmet use, knowledge of road safety and the Highway Code;
- Rules around road defect liability for local authorities.

We recognise that some of these safety questions are relevant to existing transport means, such as cycling.

We consider it important that insurance requirements are fully considered alongside the possibility of suitable sanctions for mis-use of micromobility vehicles. We note that such vehicles would not be covered by the requirement for a driving licence and associated requirements, and so fixed penalty and/or civil sanctions may be appropriate to address issues of mis-use. There may be issues with identifying owners and users of vehicle. The model used in the context of car rentals may be suitable for hired vehicles – i.e. the vehicle is registered to the rental company who are legally liable, but the customer indemnifies the rental company under the rental contract. Another possible enforcement model is that used in respect of drone misuse.

Questions 3.1-3.12

We have no comments to make.

Question 4.1

In your opinion, in the development of Mobility as a Service platforms, what should be the role of local authorities, central government, or other transport authorities? Please provide details.

We consider that mobility as a service raises a number of issues in the context of the role of local authorities, central government or other transport authorities. The nature of the scheme requires consideration – for example, will this be market-led or a publicly procured model. There are potential advantages and disadvantages with both. Data ownership is another key matter which requires consideration. An appropriate approach may be for any scheme (regardless of how the scheme is devised and procured) to be run under licence from national or civic authorities which requires operator data to be shared on open source basis. This would prevent the operator having a monopoly of data knowledge.

Questions 4.2- 4.10

We have no comments to make.

Question 5a.1

Can you provide evidence of how regulatory frameworks outside of the UK have explicitly sought to improve access to transport for people with protected characteristics?

We have no comments to make.

Question 5a.2

In your opinion, how can regulation of future transport technologies and services secure equitable access to transport for people with protected characteristics? Please provide examples.

See our general comments, above. All usual techniques to ensure maximum accessibility should be employed, including visual signage as well as text, use of easy-read text, where practicable audible instructions to assist the visually impaired; ensuring that signage and other instructions can easily be seen from a distance and from the level of a wheelchair; ensuring disabled access both at and to point of

boarding, as well as on vehicles themselves; allowing adequate time for people with mobility difficulties; and so forth.

Questions 5b.1- 5d.1

We have no comments to make.

For further information, please contact:

Jennifer Paton
Policy Team
Law Society of Scotland
DD: 0131 476 8136
JenniferPaton@lawscot.org.uk