



Department  
for Transport

# Consultation on proposed transposition of Alternative Fuels Infrastructure Directive Government Response

September 2017

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# Contents

- 1. Introduction 4
  - Why we consulted 4
  - Who responded 4
  - Exiting the European Union 5
  - Government decision 5
  - Next steps 5
- 2. Proposals 7
  - National Policy Framework 7
  - National Legislation 7
- 3. Summary of responses and government decisions 9
  - Technical standards for electric vehicle charging 9
  - Shore-side electricity supply standards 10
  - Intelligent Metering Systems 11
  - Ad-hoc access to charging infrastructure 12
  - Hydrogen Supply for Road Transport 13
  - User information 13
  - Enforcement 14
- Annex A: Full list of consultation questions 16
  - Technical standards for electric vehicle charging 16
  - Shore-side electricity supply standards 16
  - Intelligent Metering Systems 16
  - Ad-hoc access to charging infrastructure 16
  - Hydrogen Supply for Road Transport 17
  - User information 17
  - Enforcement 17
- Annex B: Consultation principles 18

# 1. Introduction

## Why we consulted

- 1.1 The Alternative Fuel Infrastructure Directive<sup>1</sup> was agreed by the European Union in 2014. The Directive is designed to deliver a build-up of alternative fuels infrastructure that is compliant with common technical standards, so as to facilitate a faster transition to cleaner transport. It will play a role in ensuring there is a consistent approach to the provision of alternative fuels infrastructure for both road vehicles and maritime vessels across the EU and support their uptake and use.
- 1.2 The government is legally required to implement the requirements of the Directive in the UK.
- 1.3 In October 2016 we published a consultation setting out details of our proposed implementation of the Directive. This proposed that regulations be introduced which would place requirements on operators of alternative fuel infrastructure. The consultation asked stakeholders to identify any specific issues which might prevent infrastructure operators from complying with the regulations.

## Who responded

- 1.4 A total of 18 responses to the consultation were received. The majority were from industry stakeholders, representing a variety of organisations, and the remainder from individual members of the public. The government is grateful for the considered responses received to this consultation, and values the evidence and opinions submitted.
- 1.5 A stakeholder event was also held to provide an opportunity to ask questions on the measures, as well as a large number of bi-lateral meetings with stakeholders who had specific queries on particular aspects of the Directive.

<b>Total Number of Responses</b>	<b>18</b>
Responses from individuals	4
Responses from organisations	14

**Table 1 Number of consultation responses**

<sup>1</sup> Directive 2014/94/EU. Full text available here: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0094>

Type of organisation	Number of Responses
Trade association	4
Vehicle manufacturer	4
Chargepoint operator	2
Fuel supplier	2
Fuel cell manufacturer	1
Local authority	1

**Table 2 Breakdown of responses by type of organisation**

## Exiting the European Union

- 1.6 On 23 June 2016, the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

## Government decision

- 1.7 All responses to the consultation have been recorded and analysed. The full written responses have been examined and common issues and themes have been identified. These will be used, where possible, to inform the final transposition details.
- 1.8 This document comprises a summary of the responses received, sets out the government's decisions on how to proceed and the next steps in the transposition process.
- 1.9 The essentials of the approach that we outlined in the consultation document remain the same. The government will continue to transpose the Directive through means of national legislation.
- 1.10 As a result of the responses received, we have made a number of changes to the proposed policy, including:
- Amending some of the civil penalties associated with non-compliant infrastructure.
  - Clarifying the definition of publicly accessible chargepoints, to explicitly exclude residential and workplace shared car parks.
  - Amending the definition of 'renewal' to exclude routine maintenance.
  - Agreeing to allow a year-long grace period for existing chargepoints to implement ad-hoc access requirements, so that they must be compliant by November 2018.

## Next steps

- 1.11 We intend to lay the implementing regulations in Parliament in September 2017. The majority of the requirements will then come into force on 17 November 2017.

1.12 Over the course of the year the Office for Low Emission Vehicles (OLEV) will work closely with industry to develop supporting guidance. This guidance will give further information to industry on how they can ensure that they are compliant.

## 2. Proposals

- 2.1 The Alternative Fuels Infrastructure Directive introduces requirements around the provision, accessibility and design standards of infrastructure. The Directive also requires the publication of a National Policy Framework (NPF) detailing the measures necessary to develop the market for alternatively fuelled vehicles in the UK.

### National Policy Framework

- 2.2 The NPF will present information on the current quantity, spread and reach of alternative fuels infrastructure across the UK, such as electric chargepoints, hydrogen refuelling stations and natural gas refuelling provision for vehicles and ships. It will outline future development of the infrastructure and how these levels of infrastructure are likely to be achieved.
- 2.3 The NPF will not announce new measures, but will reflect those that are already in place. Consequently, we did not consult on the details of the NPF.

### National Legislation

- 2.4 To meet the other requirements of the Directive, we proposed to introduce national legislation that will impose certain requirements on infrastructure operators and statutory harbour authorities. The requirements proposed in the consultation are set out below. For full details of the proposals, please see the original consultation document<sup>2</sup>.

#### Technical standards for electric vehicle recharging

- Infrastructure operators must comply with technical standards for electric vehicle recharging sockets and connectors.

#### Shore-side electricity supply standards

- Statutory harbour authorities must ensure that new or renewed shore-side electricity (SSE) supply installations must comply with certain technical standards.

#### Intelligent metering systems

- Infrastructure operators must ensure that public recharging points use intelligent metering systems.

#### Ad-hoc access to charging infrastructure

- Infrastructure operators must provide ad-hoc access for electric vehicle users.

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<sup>2</sup> The original consultation document can be found here: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/562371/alternative-fuels-infrastructure-directive-consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/562371/alternative-fuels-infrastructure-directive-consultation.pdf)

### **Hydrogen supply for road transport**

- Infrastructure operators must ensure that hydrogen refuelling points accessible to the public comply with technical standards for refuelling connectors.

### **User information**

- Infrastructure operators must ensure that the geographic location of public recharging or refuelling points is accessible to the public in an open and non-discriminatory fashion.

### **Enforcement**

- Failure to meet the requirements of the legislation will incur civil penalties.



# 3. Summary of responses and government decisions

## Technical standards for electric vehicle recharging

### Consultation Questions

- What issues do you anticipate with regard to complying with these obligations?
- Do you understand the definition used for Infrastructure Operator and are you clear whether you would fall within or outside this definition?
- Do you understand the definition used for 'renewed' and are you clear as to the circumstances when this would apply?
- Do you anticipate any operational problems in complying with this obligation from November 2017?

### Summary of responses

- 3.1 In responding to the question about operational problems in complying with the requirements, the majority of respondents (72%) either did not specify any or were supportive of those proposals. However, a number of potential issues were identified.
- 3.2 Some respondents were unclear which chargepoints would be included in the definition 'accessible to the public'. In particular, there was uncertainty about whether the regulations would apply to collective car parks, such as the car parks of businesses, offices or blocks of flats. Most of those raising these concerns were of the view that the regulation should not apply to these chargepoints. Some respondents also raised these concerns when responding to the questions on ad-hoc access to charging infrastructure (see page 12).
- 3.3 Other concerns raised included:
  - a concern that suitable software would not be available to process international payments (though this is more relevant to the requirements relating to ad-hoc access),
  - a reminder that there is still a need to provide suitable infrastructure for legacy charging standards (such as Type 1),
  - further concerns were raised about the cost of replacing non-compliant chargepoints. However, this concern did not seem to take into account the fact that replacement would only be necessary when non-compliant chargepoints are renewed.
- 3.4 Considering the proposed definition of 'infrastructure operator', of those who responded 67% indicated that they agreed with and understood the definition.

- 3.5 Some respondents felt the definition need more clarity, and that there may be situations where it was unclear whether the responsibility lay with a service provider, or the owner/maintainer of the infrastructure. Others thought that the responsibility should sit with the infrastructure owner, rather than the operator.
- 3.6 Three respondents (17%) indicated that they did not understand the definition of 'renewed'. They felt that the definition should explicitly exclude routine maintenance, and that more clarity should be provided around what constituted a 'significant' component or change.

### **Government decision**

- 3.7 In response to the feedback that we should be more explicit about the definition of 'accessible to the public', we will set out in legislation and guidance which chargepoints will be covered by the regulations. Broadly, chargepoints in the following locations will be excluded from the definition of publicly accessible car parks:
- Car parks for the use of collective residential premises
  - Workplace car parks
- 3.8 However, the definition will include:
- Car parks intended for the use of consumers of goods or services.
- 3.9 We will continue to place the responsibility for compliance on infrastructure operators. We do not intend to significantly amend the definitions of infrastructure operator.
- 3.10 We will amend the definition of 'renewed' used in the legislation to explicitly exclude routine maintenance.
- 3.11 We have noted the concerns raised about the ambiguity of these definitions, and what they might mean in practice. In preparing guidance for the enforcement of this legislation, we will consider whether this guidance could provide further information on what constitutes an Infrastructure Operator or 'renewed' infrastructure.

## **Shore-side electricity supply standards**

### **Consultation Questions**

- Do you anticipate there will be a sufficient number of compliant shore-side electricity installations available to the market to allow compliance with this obligation from November 2017?
- Do you recognise and agree with our definition of statutory harbour authority?

### **Summary of responses**

- 3.12 Engagement with the two questions relating to SSE was limited due to the specialist nature of the subject area. However, none of the answers that we received highlighted any issues with the number of compliant SSE installations available to the market, or with the definition of statutory harbour authority.
- 3.13 The majority of respondents did not answer the first question. One respondent agreed that there would be sufficient compliant installations available on the market to meet this obligation. One respondent pointed out the increasing need for SSE supplies to meet demand from an increasing number of electric or hybrid powered ferries, whilst another acknowledged a general need for SSE installations.

3.14 Regarding the definition of statutory harbour authority, 17 respondents (94%) either did not provide an answer or stated it was not applicable. The remaining respondent agreed with the definition.

### **Government decision**

3.15 As respondents raised no issues with our proposed approach, we will proceed as set out in the consultation.

## **Intelligent Metering Systems**

### **Consultation questions**

- Do you agree that it is economically reasonable to make use of intelligent metering systems?
- Do you agree that intelligent metering functionality is already present in some infrastructure or can be easily incorporated?
- What are your views on requiring all recharging points to include a basic communications standard?
- Are there any operational reasons why the proposed compliance deadline cannot be met?

### **Summary of responses**

3.16 A significant proportion of respondents (61%) did not provide an answer when asked whether it is economically reasonable to make use of intelligent metering systems. 2 respondents thought that it was economically reasonable, and one said that mandating it would increase costs.

3.17 The remaining 4 respondents, while not opposing the intelligent metering requirement, raised a number of considerations:

- 2 said they would need more information on what is meant by intelligent metering, to be able to answer.
- One felt that it was economically reasonable but it needed to be made clearer whether intelligent metering functionality would be used for billing usage or for information purposes.
- One respondent noted that the usefulness of intelligent metering functionality to EV drivers would reduce as more chargepoints with this technology became available.

3.18 On the question of whether intelligent metering functionality is already present in some infrastructure or can be easily incorporated, 12 respondents did not answer. 4 agreed that this functionality was already present or could be easily incorporated, whilst one other respondent agreed that the functionality was already present in some chargepoints but would be difficult or expensive to retrofit to others.

3.19 Of those that answered, 53% supported the idea of a basic communications standard. However, most noted that it would depend on the details of what the standard was and the data that it transferred. This question was asked to obtain general feedback, and no proposal to mandate a basic communication standard was proposed in the consultation.

3.20 Only one respondent thought that the proposed compliance deadline could not be met. All other respondents who answered either thought that the proposed deadline was reasonable.

### **Government decision**

3.21 We intend to transpose the requirement for infrastructure operators broadly along the lines proposed in the consultation. More information on the exact requirements for intelligent metering will be set out in guidance.

## **Ad-hoc access to charging infrastructure**

### **Consultation questions**

- Do you anticipate any operational problems in complying with these obligations from November 2017?
- Do you understand the definitions of ‘accessible to the public’ and ‘non-discriminatory access’? Do these definitions present any issues?
- Are the proposed compliance deadlines achievable?
- Do you agree that the infrastructure operator should be able to determine the ad-hoc access method for the user?

### **Summary of responses**

3.22 The majority of respondents did not answer the question about whether they saw any operational problems in complying with the obligations around ad-hoc access. Of the 8 that did answer, 5 raised concerns, including:

- whether the regulations regarding ad-hoc access would apply to mobile hydrogen filling stations
- whether hydrogen filling stations would be able to limit ad-hoc access to type-approved vehicles for safety reasons
- whether the legislation would require all current chargepoints to provide ad-hoc access, or just ‘renewed’ chargepoints

3.23 The definitions of ‘accessible to the public’ and ‘non-discriminatory access’ were generally understood and accepted, although some respondents asked for more clarity about what was meant by accessible to the public (as discussed on page 9).

3.24 There were some concerns that allowing infrastructure operators to discriminate on the basis of vehicle make would be discriminatory.

3.25 No respondents said that they thought the compliance deadlines were not achievable.

3.26 No respondents disagreed with the proposal that the infrastructure operator should be able to determine the ad-hoc access method. However, some respondents raised concerns that a large number of different ad-hoc access methods would be undesirable, and that there should be a degree of co-ordination.

### **Government decision**

3.27 Some of the concerns raised in this section were based on a misunderstanding of the proposed legislation. To be clear, the requirement for ad-hoc access will only apply to electric vehicle charging stations, and not to hydrogen refuelling stations.

- 3.28 Based on the concerns about the difficulty of applying the ad-hoc access provisions to existing chargepoints, we are proposing allow an additional year-long grace period for compliance of existing chargepoints. All new renewed or deployed chargepoints will need to comply from 17 November 2017, all existing chargepoints will need to comply from 17 November 2018.
- 3.29 Otherwise, we will implement these requirements as proposed in the consultation.

## Hydrogen Supply for Road Transport

### Consultation questions

- Does compliance with this requirement present any operational difficulties?
- Can this requirement be met by the proposed deadline?

### Summary of responses

- 3.30 Of the 6 who answered the first question, 33% said that they could not see operational difficulties with complying. Several respondents raised concerns that the mandated hydrogen connector standard (ISO 17268) was not suitable, as no compliant products were currently on the market. They indicated that an alternative standard – SAE J2600 - should be used. They pointed out that the ISO standard was based on the SAE standard, and therefore that the differences between the two were superficial. However, manufacturers might not be willing to go through the expense of certifying their products to the ISO standard, given the small size of the early market for hydrogen refuelling stations.
- 3.31 Concerns were also raised as to whether the requirement could be met by the proposed deadline, given the time needed by manufacturers to certify their products against ISO 17268. Respondents differed in their response to this question, with some stating that it would be possible, others that it probably would not be.

### Government decision

- 3.32 While noting the concerns raised, the UK is required to mandate ISO 17268 in order to accurately transpose the legislation.

## User information

### Consultation questions

- Is it clear what is meant to you by when available?
- Are there any operational barriers which would prevent you from making such data available?
- Is the compliance deadline of 18 November 2017 achievable? If not, why not? Could compliance be achieved sooner?

### Summary of responses

- 3.33 No respondents indicated that the use of the phrase ‘when available’ was unclear. There was some confusion as to whether the proposed requirement covered provision of live data about availability of the chargepoint. The proposal that we consulted on was only about provision of geographic data. However, we did consult separately on provision on legislation for live availability data. These powers are now

under consideration as part of the Autonomous and Electric Vehicles Bill that was announced in Queen's Speech 2017.

- 3.34 No respondents indicated any operational barriers that would prevent them from making data about the location of recharging stations publicly available.
- 3.35 No respondents indicated that the compliance deadline was unachievable. Indeed, many respondents indicated that it could be brought about sooner, or that their organisation already

### **Government decision**

- 3.36 We will proceed with the proposals set out in the consultation.

## **Enforcement**

### **Consultation questions**

- Do you agree this method of enforcement is proportionate to potential offences?
- Do you think the proposed penalty levels are appropriate? If not, why and what levels do you consider more appropriate? Why?
- Do you consider the basis upon which penalty levels are calculated (cost and degree of impact) appropriate? If not, what alternative approach would you use?
- Do you envisage any operational difficulties around assessing compliance for the purposes of enforcement?
- Are there other measures, that alongside enforcement, the government should consider to encourage compliance? If so please explain your views.
- Is the 10 day compliance deadline sufficient? If not, what would be a more suitable period?
- What appropriate factors should be taken into account when determining the level of civil penalty which should be levied for non-compliance with data accessibility requirements?

### **Summary of responses**

- 3.37 Most respondents (83% of those who answered) did not raise any concerns with the proposed method of enforcement. One respondent questioned if it might be more appropriate to close the refuelling station rather than impose a financial penalty.
- 3.38 Some respondents raised a general concern with the level of the penalties proposed, stating that they were too high. One respondent said more specifically that they thought the £200,000 penalty for a non-compliant hydrogen refuelling station was too high, and could put off potential investors.
- 3.39 When considering the viability of a 10-day compliance deadline, some respondents were concerned that this would not give sufficient time to allow operators to investigate, diagnose and order replacement parts to bring the recharging point back into compliance. Some who raised this point commented that this time could be sufficient if infrastructure operators were allowed to close the station until the infrastructure could be brought back into compliance.
- 3.40 Only 2 respondents answered the question as to the factors that should be taken into account in setting civil penalties for non-compliance with data accessibility

requirements. One of these responses proposed: station throughput and whether the station is available during the data outage.

3.41 Some respondents were uncertain whether the proposed fines could be issued multiple times.

### Government decision

3.42 In response to stakeholder feedback, we have decided to amend some of the proposed penalties for non-compliance.

3.43 Our new proposed civil penalty amounts are set out in Table 3 below. We have amended all the penalties to allow the regulator to vary the amount to suit the individual circumstance of non-compliance.

<b>Non-compliant infrastructure</b>	<b>Proposed in Consultation</b>	<b>Revised</b>
Normal power charge point	£500	Up to £500
High power charge point	£4,000	Up to £4,000
Hydrogen refuelling point	£200,000	Up to £10,000
Shore-side electrical installation	£300,000	Up to £300,000
Data accessibility	£300	Up to £100

**Table 3 Civil penalties – amounts proposed in consultation and revised**

3.44 We have also decided to bring in penalties for failure to meet the ad-hoc access and intelligent metering requirements. This will be up to £1,000 per non-compliant chargepoint for the ad-hoc access requirement, and up to £300 per non-compliant chargepoint for the intelligent metering requirement.

3.45 We would also like to clarify that the proposed fines can only be issued once for each piece of non-compliant infrastructure.

# Annex A: Full list of consultation questions

## Technical standards for electric vehicle charging

- 1 What issues do you anticipate with regard to complying with these obligations?
- 2 Do you understand the definition used for Infrastructure Operator and are you clear whether you would fall within or outside this definition?
- 3 Do you understand the definition used for 'renewed' and are you clear as to the circumstances when this would apply?
- 4 Do you anticipate any operational problems in complying with this obligation from November 2017?

## Shore-side electricity supply standards

- 5 Do you anticipate there will be a sufficient number of compliant shore-side electricity installations available to the market to allow compliance with this obligation from November 2017?
- 6 Do you recognise and agree with our definition of statutory harbour authority?

## Intelligent Metering Systems

- 7 Do you agree that it is economically reasonable to make use of intelligent metering systems?
- 8 Do you agree that intelligent metering functionality is already present in some infrastructure or can be easily incorporated?
- 9 What are your views on requiring all recharging points to include a basic communications standard?
- 10 Are there any operational reasons why the proposed compliance deadline cannot be met?

## Ad-hoc access to charging infrastructure

- 11 Do you anticipate any operational problems in complying with these obligations from November 2017?
- 12 Do you understand the definitions of 'accessible to the public' and 'non-discriminatory access'? Do these definitions present any issues?
- 13 Are the proposed compliance deadlines achievable?
- 14 Do you agree that the infrastructure operator should be able to determine the ad-hoc



access method for the user?

## Hydrogen Supply for Road Transport

- 15 Does compliance with this requirement present any operational difficulties?
- 16 Can this requirement be met by the proposed deadline?

## User information

- 17 Is it clear what is meant to you by when available?
- 18 Are there any operational barriers which would prevent you from making such data available?
- 19 Is the compliance deadline of 18 November 2017 achievable? If not, why not? Could compliance be achieved sooner?

## Enforcement

- 20 Do you agree this method of enforcement is proportionate to potential offences?
- 21 Do you think the proposed penalty levels are appropriate? If not, why and what levels do you consider more appropriate? Why?
- 22 Do you consider the basis upon which penalty levels are calculated (cost and degree of impact) appropriate? If not, what alternative approach would you use?
- 23 Do you envisage any operational difficulties around assessing compliance for the purposes of enforcement?
- 24 Are there other measures, that alongside enforcement, the government should consider to encourage compliance? If so please explain your views.
- 25 Is the 10 day compliance deadline sufficient? If not, what would be a more suitable period?
- 26 What appropriate factors should be taken into account when determining the level of civil penalty which should be levied for non-compliance with data accessibility requirements?

# Annex B: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

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