

**Response to Law Commissions' second consultation on Automated Vehicles
(Law Commission Consultation Paper 245; Scottish Law Commission Discussion Paper 169)**

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Any personal email addresses and phone numbers have been excluded from this document.

Unanswered questions have been deleted from this document.

What is your name?

Mark J Fowles

What is the name of your organisation?

ALBUM

Are you responding to this consultation in a personal capacity or on behalf of your organisation?

[Respondents chose from the following options: Personal response; Response on behalf of your organisation; Other.]

Responding on behalf of organisation

CHAPTER 3: OPERATOR LICENSING – A SINGLE NATIONAL SYSTEM

A single national scheme

Consultation Question 1 (Paragraph 3.82): Do you agree that Highly Automated Road Passenger Services (HARPS) should be subject to a single national system of operator licensing?

[Respondents chose from the following options: yes; no; other.]

Yes

National control provides for a common standard.

Consultation Question 2 (Paragraph 3.86): Do you agree that there should be a national scheme of basic safety standards for operating a HARPS?

[Respondents chose from the following options: yes; no; other.]

Yes

National control provides for a standard that applies to all. The standard should be prescriptive and detailed.

CHAPTER 4: OPERATOR LICENSING –SCOPE AND CONTENT

Scope of the new scheme

Consultation Question 3 (Paragraph 4.33): Do you agree that a HARPS operator licence should be required by any business which: (1) carries passengers for hire or reward; (2) using highly automated vehicles; (3) on a road; (4) without a human driver or user-in-charge in the vehicle (or in line of sight of the vehicle)?

[Respondents chose from the following options: yes; no; other.]

Yes

Yes to all there should be no exceptions and no variance safety has only one level.

This is a brand new transport system here is an opportunity to set a standard from the beginning that says "quality".

Consultation Question 4 (Paragraph 4.34): Is the concept of “carrying passengers for hire or reward” sufficiently clear?

Yes

Given that this reference is related to a defined term as within existing legislation; Yes.

Exemptions

Consultation Question 5 (Paragraph 4.46): We seek views on whether there should be exemptions for community or other services which would otherwise be within the scope of HARPS operator licensing.

How can there be exemptions from governing regulation?

Either you conform to the regulations or you don't. Just because you are run by a community group or other such body does not mean that the public should be any less safe.

So NO; there should not be any exceptions.

Consultation Question 6 (Paragraph 4.54): We seek views on whether there should be statutory provisions to enable the Secretary of State to exempt specified trials from the need for a HARPS operator licence (or to modify licence provisions for such trials).

We agree that there should be such provision. Without trials, how can the practical, operational, real live issues be addressed.

Operator requirements

Consultation Question 7 (Paragraph 4.72): Do you agree that applicants for a HARPS operator licence should show that they: (1) are of good repute; (2) have appropriate financial standing; (3) have suitable premises, including a stable establishment in Great Britain; and (4) have a suitable transport manager to oversee operations?

[Respondents chose from the following options: yes; no; other.]

Yes

Yes to all; with a clear distinction and application of (1) “are of good repute”.

This appears to have been forgotten about within the existing application of the law.

Consultation Question 8 (Paragraph 4.73): How should a transport manager demonstrate professional competence in running an automated service?

We believe there are two elements to this.

Firstly that there is a clear understanding of the maintenance regime and pre-operational checks needed to ensure the system is fully operational and roadworthy compliant.

Secondly that there should be an enhancement to the CPC which specifically deals with this element of operation and is in addition to the standard CPC. There will probably be the need, as systems develop and change, to have continual professional development as part of the CPC enhancement.

Adequate arrangements for maintenance

Consultation Question 9 (Paragraph 4.89): Do you agree that HARPS operators should: (1) be under a legal obligation to ensure roadworthiness; and (2) demonstrate “adequate facilities or arrangements” for maintaining vehicles and operating systems “in a fit and serviceable condition”?

[Respondents chose from the following options: yes; no; other.]

Yes

There has to be clear definition of the controlling and responsible mind.

Consultation Question 10 (Paragraph 4.90): Do you agree that legislation should be amended to clarify that HARPS operators are “users” for the purposes of insurance and roadworthiness offences?

[Respondents chose from the following options: yes; no; other.]

Yes

There has to be clear definition of the controlling and responsible mind.

Compliance with the law

Consultation Question 11 (Paragraph 4.124): Do you agree that HARPS operators should have a legal duty to: (1) insure vehicles; (2) supervise vehicles; (3) report accidents; and (4) take reasonable steps to safeguard passengers from assault, abuse or harassment?

[Respondents chose from the following options: yes; no; other.]

Yes

With regards to 1, 2, 3, above a resounding Yes.

With regards to 4 above ; Difficult given the “remoteness” of the operator but generally agree if there is a clear understanding and definition of the term “reasonable” in any framework.

Consultation Question 12 (Paragraph 4.125): Do you agree that HARPS operators should be subject to additional duties to report untoward events, together with background information about miles travelled (to put these events in context)?

[Respondents chose from the following options: yes; no; other.]

Yes

Yes, with regards to the event reporting providing, that the meaning of untoward events are clarified and identified. Given the level of technology employed in these vehicles information re location and mean time (and mileage) between such events should be readily available.

Consultation Question 13 (Paragraph 4.128): Do you agree that the legislation should set out broad duties, with a power to issue statutory guidance to supplement these obligations?

[Respondents chose from the following options: yes; no; other.]

Yes

The need for ongoing development of control through SG we would see as essential.

Consultation Question 14 (Paragraph 4.133): We invite views on whether the HARPS operator licensing agency should have powers to ensure that operators provide price information about their services. In particular, should the agency have powers to: (1) issue guidance about how to provide clear and comparable price information?

[Respondents chose from the following options: yes; no; other.]

Yes

Price information are already published by many operators. Forthcoming rules under BODS will enforce this. There should be an equality between the bus and HARPS.

And/or (2) withdraw the licence of an operator who failed to give price information?

[Respondents chose from the following options: yes; no; other.]

Yes

Who should administer the system?

Consultation Question 15 (Paragraph 4.138): Who should administer the system of HARPS operator licensing?

Given that, HARPS will be public transport without drivers it would seem sensible for the Traffic Commissioners to administer and enforce the Legislative framework, given that they are adequately resourced.

Freight Transport

Consultation Question 16 (Paragraph 4.140): We welcome observations on how far our provisional proposals may be relevant to transport of freight.

The difference between Freight and Public Transport is significant with few similarities. Within freight you then have the difference between urban and inter urban operations with very different operating conditions most of which could be even more onerous. The relevance of

these proposals to freight will have to be considered very carefully as I can see little alignment between the two sectors.

CHAPTER 5: PRIVATELY-OWNED PASSENGER-ONLY VEHICLES

Setting a boundary between HARPS and private leasing

Consultation Question 17 (Paragraph 5.12): Do you agree that those making “passenger-only” vehicles available to the public should be licensed as HARPS operators unless the arrangement provides a vehicle for exclusive use for an initial period of at least six months?

[Respondents chose from the following options: yes; no; other.]

Yes

Allocating responsibility for a privately-owned passenger-only vehicle: placing responsibilities on keepers

Consultation Question 18 (Paragraph 5.40): Do you agree that where a passenger-only vehicle is not operated as a HARPS, the person who keeps the vehicle should be responsible for: (1) insuring the vehicle; (2) keeping the vehicle roadworthy; (3) installing safety-critical updates; (4) reporting accidents; and (5) removing the vehicle if it causes an obstruction or is left in a prohibited place?

[Respondents chose from the following options: yes; no; other.]

Yes

Seems sensible that there should be an ultimate "owner" who is responsible for these obligations

Consultation Question 19 (Paragraph 5.41): Do you agree that there should be a statutory presumption that the registered keeper is the person who keeps the vehicle?

Yes

If you mean by “keeper”; the operator, then Yes.

Consultation Question 20 (Paragraph 5.42): We seek views on whether: (1) a lessor should be responsible for the obligations listed in Question 18 unless they inform the lessee that the duties have been transferred?

Yes.

(2) a lessor who is registered as the keeper of a passenger-only vehicle should only be able to transfer the obligations to a lessee who is not a HARPS operator if the duties are clearly explained to the lessee and the lessee signs a statement accepting responsibility?

Yes, providing that the lessee is capable and able to operate the vehicle in accordance with the legislative framework.

Will consumers require technical help?

Consultation Question 21 (Paragraph 5.47): Do you agree that for passenger-only vehicles which are not operated as HARPS, the legislation should include a regulation-making power to require registered keepers to have in place a contract for supervision and maintenance services with a licensed provider?

Yes

Absolutely, with enforcement of transgressors being draconian.

It is essential for public acceptance of such vehicles that they perceive and understand that the operation and maintenance of them is akin to the regime of aircraft operation and maintenance. i.e. lives depend on it.

Peer-to-peer lending

Consultation Question 22 (Paragraph 5.53): We welcome views on whether peer-to-peer lending and group arrangements relating to passenger-only vehicles might create any loopholes in our proposed system of regulation.

Yes

As with the introduction of any new technology, it is the initial framework, which will set the agenda. Whether it be peer-to-peer or group arrangements, as long as the operating and maintenance conditions for lender and receiver are enforced rigorously there should be no issue. But they will have to be absolute O&M conditions; no if's no but's.

Protecting consumers from high ongoing costs

Consultation Question 23 (Paragraph 5.60): We seek views on whether the safety assurance agency proposed in Consultation Paper 1 should be under a duty to ensure that consumers are given the information they need to take informed decisions about the ongoing costs of owning automated vehicles.

We have no issue with this but would question why the ongoing cost of owning is an issue. Which consumer knows the cost of running a train, boat, plane or bus?

What they are concerned with is; is it safe?

CHAPTER 6: ACCESSIBILITY

What we want to achieve

Consultation Question 24 (Paragraph 6.11): We seek views on how regulation can best promote the accessibility of Highly Automated Road Passenger Services (HARPS)? In particular, we seek views on the key benefits and concerns that regulation should address.

We believe the benefits are many fold for marginal operation; the last mile, and geographically remote communities.

A crucial aspect will be accessibility for both the wheelchair user with issues such as ramp deployment, steepness of ramp, no operative to assist.

More importantly greater consideration should be given to the ambulant disabled who require being able to walk upright into such a vehicle without stooping down and the height of seats etc. consultation with those representing minority groups will be crucial to the acceptance of these vehicles.

This is a new form of transport here is the opportunity to provide a standard that will provide total access irrespective of ability or disability. if you miss this opportunity you will never get it back. your mantra should be; total access for all.

Core obligations under equality legislation

Consultation Question 25 (Paragraph 6.31): We provisionally propose that the protections against discrimination and duties to make reasonable adjustments that apply to land transport service providers under section 29 of the Equality Act 2010 should be extended to operators of HARPS. Do you agree?

[Respondents chose from the following options: yes; no; other.]

Yes

A resounding "Yes" but there may be a need to go further.

Buses are compliant and easily accessible, yet LNER have been able to introduce on the East Coast mainline, trains that are less accessible to the ambulant disabled than the older models, yet still within the accessibility framework. That cannot be right for the industry or the public so you need to ensure that there is total unrestricted access for all.

Specific accessibility outcomes

Consultation Question 26 (Paragraph 6.106): We seek views on how regulation could address the challenges posed by the absence of a driver, and the crucial role drivers play in order to deliver safe and accessible journeys. For example, should provision be made for:

(1) Ensuring passengers can board and alight vehicles?

[Respondents chose from the following options: yes; no; other.]

Yes

This may require a designated "docking stations" with level boarding at all stops. These are new systems here is a chance to redefine public transport and accessibility. Alternatively the vehicle could be designed/specified such that the vehicle lowers to ground level to provide total access

(2) Requiring reassurance when there is disruption and accessible information?

[Respondents chose from the following options: yes; no; other.]

Yes

Existing messaging services could be enhanced to assist in this via smart technology

(3) Expansion of support at designated points of departure and arrival?

[Respondents chose from the following options: yes; no; other.]

Other

Appropriate design would remove the needs for this (see what Scandinavian rail has done to facilitate this).

Developing national minimum accessibility standards for HARPS

Consultation Question 27 (Paragraph 6.109): We seek views on whether national minimum standards of accessibility for HARPS should be developed and what such standards should cover.

There should not be a minimum standard, there should be an absolute standard that provides for total accessibility for all, the wheelchair user, the ambulant disabled, the elderly, those with pushchairs.

No discrimination just access on equal rights to the able-bodied passenger.

These are new systems here is a chance to redefine public transport and accessibility use it.

Enforcement mechanisms and feedback loops

Consultation Question 28 (Paragraph 6.124): We seek views on whether operators of HARPS should have data reporting requirements regarding usage by older and disabled people, and what type of data may be required.

[Respondents chose from the following options: yes; no; other.]

Other

If you have total access this data would be irrelevant.

That said it would serve as a measure of how far short other less accessible systems are falling. The data could be collected from any concessionary fares scheme in operation.

CHAPTER 7: REGULATORY TOOLS TO CONTROL CONGESTION AND CRUISING

Traffic regulation orders

Consultation Question 29 (Paragraph 7.23): We seek views on whether the law on traffic regulation orders needs specific changes to respond to the challenges of HARPS.

The nature and operation of such vehicles is totally controlled by digital mapping.

As such with traffic regulation orders being also digitally defined there could be a legal obligation to comply written into the programming and operational parameters of the HARPS.

If that were achieved TRO's would only be broken if there was a system failure.

Regulating use of the kerbside

Consultation Question 30 (Paragraph 7.59): We welcome views on possible barriers to adapting existing parking provisions and charges to deal with the introduction of HARPS.

In particular, should section 112 of the Road Traffic Regulation Act 1984 be amended to expressly allow traffic authorities to take account of a wider range of considerations when setting parking charges for HARPS vehicles?

[Respondents chose from the following options: yes; no; other.]

Yes

Given that this is a new system offering potentially greater accessibility for all the regulations particularly 2(a),(bb) and (c) should be given additional emphasis.

Road pricing

Consultation Question 31 (Paragraph 7.86): We seek views on the appropriate balance between road pricing and parking charges to ensure the successful deployment of HARPS.

Given that this is a new system offering potentially greater accessibility for all.

Due account of congestion and environmental concerns driven by the general access of traffic to sensitive areas should be taken such that there is an economic disincentive placed against the use of private vehicles in these areas.

Consultation Question 32 (Paragraph 7.87): Should transport authorities have new statutory powers to establish road pricing schemes specifically for HARPS?

If so, we welcome views on:

- (1) the procedure for establishing such schemes;
- (2) the permitted purposes of such schemes; and
- (3) what limits should be placed on how the funds are used.

[Respondents chose from the following options: yes; no; other.]

Yes

(1) Existing schemes such as London's congestion charge and Nottingham's workplace parking charge we believe have established the principles.

(2) Congestion relief, environmental relief, citizen wellbeing, regeneration.

(3) Any funds generated should be ring fenced and only be capable of reinvestment in public transport to achieve predefined stated objectives.

Quantity restrictions

Consultation Question 33 (Paragraph 7.97): Do you agree that the agency that licenses HARPS operators should have flexible powers to limit the number of vehicles any given operator can use within a given operational design domain for an initial period? If so, how long should the period be?

[Respondents chose from the following options: yes; no; other.]

Yes

Yes; the introduction of any new system should be carried out in full consultation with operators and authorities to ensure that the aims of the scheme are measurable.

There should be a pre-defined measure of "success" at the end of any trial period.

Given the measure of success with local bus services we believe the initial period should be 18 months with 6 monthly reviews to quantify "success" in that period.

Consultation Question 34 (Paragraph 7.120): Do you agree that there should be no powers to impose quality restrictions on the total number of HARPS operating in a given area?

[Respondents chose from the following options: yes; no; other.]

No

No: The total numbers should be driven by demand. The equation of private vs public transport should be balanced with the success of HARPS being balanced by reductions in the private vehicle through pricing mechanisms.

CHAPTER 8: INTEGRATING HARPS WITH PUBLIC TRANSPORT

The current system of bus regulation: HARPS as mass transit

Consultation Question 35 (Paragraph 8.92): Do you agree that a HARPS vehicle should only be subject to bus regulation if it:

(1) can transport more than eight passengers at a time and charges separate fares?

[Respondents chose from the following options: yes; no; other.]

No

No; irrespective of numbers carried this is public transport. the same conditionality should apply to all public transport vehicles.

This is a new form of public transport it need to have the highest standards applied to it.

(2) does not fall within an exemption applying to group arrangements, school buses, rail replacement bus services, excursions or community groups?

[Respondents chose from the following options: yes; no; other.]

No

No; irrespective of numbers carried this is public transport. the same conditionality should apply to all public transport vehicles.

This is a new form of public transport it need to have the highest standards applied to it.

Consultation Question 36 (Paragraph 8.94): We welcome views on whether any particular issues would arise from applying bus regulation to any HARPS which transports more than eight passengers, charges separate fares and does not fall within a specific exemption.

We cannot think of any at this time.

Consultation Question 37 (Paragraph 8.95): We welcome views on whether a HARPS vehicle should only be treated as a local bus service if it:

(1) runs a route with at least two fixed points; and/or

(2) runs with some degree of regularity.

Any HARPS service meeting these criteria should be treated as a local bus service.

Consultation Question 38 (Paragraph 8.109): We seek views on a new statutory scheme by which a transport authority that provides facilities for HARPS vehicles could place requirements on operators to participate in joint marketing, ticketing and information platforms.

There are existing schemes in place to deal with such matters why change what already works.

Consultation Question 39: Is there any other issue within our terms of reference which we should be considering in the course of this review?

This is a brand new transport system one which is likely to become all pervasive in the near future particularly in urban centres.

You have one opportunity to define the quality, safety and accessibility of this mode. I cannot emphasise enough that there should be TOTAL, unlimited, unfettered access to this system for all. it is within your gift to achieve this. don't mess it up.