



Automated Vehicles Team  
Law Commission  
1st Floor  
Tower  
52 Queen Anne's Gate  
London SW1H 9AG

7<sup>th</sup> February 2020

Law Commission Consultation Paper 2 on Automated Vehicles: Passenger Services and Public Vehicles.

**DPTAC**

The Disabled Persons Transport Advisory Committee (DPTAC) was established by the Transport Act 1985 and is the Government's statutory advisor on issues relating to transport provision for disabled people. Our vision is that disabled people should have the same access to transport as everybody else, be able to go where everyone else goes and do so easily, confidently and without extra cost.

**Introductory Statement**

We welcome the opportunity to respond to the Law Commission's Consultation Paper on Autonomous Vehicles providing Passenger Services and Public Transport.

Disability affects some 14 million people in the UK. It includes physical or sensory impairments as well as 'non-visible' disabilities such as autism, dementia, learning disabilities or mental health conditions. For many people a lack of mobility or confidence in using the transport system is a barrier to being able to access employment, education, health care and broader commercial opportunities (for example shopping), and a social life.

In this context, the Equality Act 2010 was introduced with a key aim to ensure that the elimination of discrimination, harassment and victimisation of disabled people (in addition to other people identified as having a Protected Characteristic as detailed in the Act) is addressed. Furthermore, the Equality Act 2010 requires that robust approach is taken to advance equality of opportunity and foster good relations for disabled people under the Public Sector Equality Duty.

**Accessibility**

**What we want to achieve**

**Consultation Question 24**

*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 that this developing technology has the potential to revolutionise the lives of disabled people by making transport services much easier to use. It offers particular benefits for those who currently cannot use a conventional private motor car. For those people who cannot drive a car for disability reasons these services offer the potential for a greatly increased level of personal independence. At the same time the design opportunities arising for smaller vehicles which do not require space to be set aside for a driver may also increase the options available to

those disabled people who have to travel in large wheelchairs. The potential for increased and more flexible door-to-door options can benefit anyone with some form of mobility impairment, including those with cognitive impairments who may struggle in unfamiliar environments. For other disabled persons the ability to use shared autonomous public vehicles will be very attractive and make transport more inclusive.

We believe that it is vital that this fast-moving area of vehicle development is fully accessible to disabled people. To achieve this outcome, it is crucial that disability considerations are factored into designs from the very beginning. The UK's current public transport system vividly illustrates the difficulties of retro-fitting adaptations to make the system accessible to disabled people. Consequently, we welcome the extent to which these issues are considered in this consultation document.

## **Operator Licensing**

### **A single national system**

#### **Consultation Question 1**

*Do you agree that Highly Automated Road Passenger Services (HARPS) should be subject to a single national system of operator licensing?*

We support the HARPS approach outlined in this consultation. We are aware already that the current regulatory regime is coming under pressure to cover some of the new demand responsive services which are being developed. A particular concern is that because many of them do not qualify as buses the vehicles sit outside the scope of Public Service Vehicle Access Regulations (PSVAR) and so the need to ensure that they are accessible to disabled users does not exist. The wide range of services being discussed as options for autonomous transport systems makes it clear that the sort of general regulatory system proposed will be required.

While we note that the Law Commission is not proposing that such a system might be necessary for driver operated services, we suggest that the Department for Transport may need to consider such an approach if the demand responsive transport market continues to develop. It will be important to consider ways in which local input can be integrated into a national scheme to ensure the needs of disabled persons locally are appropriately taken into account as part of how HARPS are deployed.

## **Specific accessibility outcomes**

### **Consultation Question 26**

*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?*
- (2) Requiring reassurance when there is disruption and accessible information?*
- (3) Expansion of support at designated points of departure and arrival?*

We also support the proposal that accessibility of HARPS services is achieved by an 'outcome-focussed' approach. We recognise that the Access Regulations approach created under the Disability Discrimination Act 1995 has driven huge progress in making services accessible for disabled people. It is notable however, that beyond buses and taxis which are particularly

suitable to this regulatory style progress has been much slower. Genuinely accessible Taxi and PHV provision has proved to be particularly difficult to achieve, and significant problems remain in aviation and maritime services.

The outcome-based approach provides the opportunity of futureproofing relevant or new regulations to reflect changes in society and demographics and therefore demand - especially in light of internal configurations of vehicles at a later date. For example, wheelchair users may also be travelling with prams, and just one space on a bus at peak time is going to have a heavy demand for it.

While supporting the outcome-focussed approach as the best solution we recognise that it will be challenging to implement in such a way that it meets the needs of all disabled people. Setting robust and achievable standards will require rigorous consideration and great care will be needed to set clear measurable outcomes.

One of the strengths of the current accessibility regulations has been consistency within and between modes. A disabled person who can use a bus can be confident that trains will also have the similar levels of accessibility. The approach has also helped to ensure a large degree of consistency of layout. For people with a vision loss it can be particularly helpful not only to know what provision to expect, but commonly where it will be located. If the outcome approach is successful the ability to move between modes of transport will continue, but there is likely to be a variety of ways in which accessibility is achieved. This risks creating an additional access barrier as users struggle to locate what they need in an unfamiliar environment.

We believe that one accessibility outcome which will be particularly important to ensure that services are accessible is the ability for the passenger to speak to a human being to obtain advice and guidance about using the service. Indeed, it is likely that this is not solely a requirement for disabled people, observing passengers puzzle over how to use the universally accessible toilet on a train demonstrates that many people struggle with simple automated designs whether or not they are disabled. While operators may hope that graphic images and even simple videos will resolve most of these problems there are always likely to be some who need more assistance, and this may be particularly important for those with cognitive impairments. The ability to interact with a human being also needs to take account of how to deliver assistance to passengers who have hearing loss.

### **Developing national minimum accessibility standards for HARPS**

#### **Consultation Question 27**

*We seek views on whether national minimum standards of accessibility for HARPS should be developed and what such standards should cover.*

As we noted above the outcome-based approach to accessibility of HARPS is positive but presents significant challenges through less standardisation and disabled persons being less able to predict what they can expect in a journey. For this reason we propose that consideration is given to establishing an independent accessibility advisory body. This is also relevant to Consultation Question 15 (*Who should administer the system of HARPS operator licensing?*). Such a body could have four functions:

- Approval of the accessibility of HARPS services

- Advice to developers of HARPS services
- Sponsoring research into new ways of achieving accessibility outcomes
- Evaluating the effectiveness of the accessibility outcomes and if necessary recommending amendments to Government

This body should operate at a national level and approval of designs should be a prerequisite before licensing of a HARPS service at a national level, and with input at a local level, can be granted. We believe that some form of national assessment will be important to help promote a degree of consistency in design and prevent significant differences in quality of accessibility between areas. Disabled people travelling from one part of the country to another must know what HARPS services and other transport services at their destination, will be accessible to them. This can also be promoted through improved mobility as a service.

An additional concern in this area might be the licensing of the use of accessibility features. It is important that developers can obtain a fair return on their investment in ensuring that their service achieves the outcome of accessibility, but the charges which developers make to allow others to use their technology must not be so high as to prohibit their wider use by other providers. We don't have a solution to this possible problem at this stage but seek to bring it to your attention.

### **Compliance with the law**

#### **Consultation Question 11**

*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?*

The Law Commission rightly recognises the issue of personal safety as being important in the development of HARPS services where no staff member is present on the vehicle. The Equality and Human Rights Commission report on hate crime against disabled people, "Hidden in Plain Sight" highlighted public transport services as a hot spot for such incidents. Shared vehicles where there are no staff members present will create an opportunity for the perpetrators of such behaviour to trap disabled passengers and carry out their hideous acts. Just as importantly disabled people who are fearful of such an attack may perceive these HARPS services as places of risk and perhaps restrict their own use of them.

It is important that the providers of HARPS services have a duty to minimise risks and have measures in place to take action when they are notified that an incident is taking place on one of their vehicles (perhaps because the passenger presses some form of alarm). They should also be required to put in place measures to record incidents which are brought to their attention retrospectively, and on services which are deemed to be high risk they should set up live monitoring systems to identify when incidents are taking place.

We assume that entry to, or payment for, HARPS services will require some form of smart card. HARPS operators should be required to have in place measures to exclude on a temporary or

permanent basis passengers who are hostile to others. Such powerful sanctions, if regularly and consistently applied, will be a strong deterrent against such behaviour.

We look forward to continuing involvement in the discussions of the legal issues involved in the development of this exciting technology.