

# Law Commission Consultation on Automated Vehicles: Passenger services and public transport

## OVERVIEW

This is a public consultation by the Law Commission for England and Wales and the Scottish Law Commission.

The consultation questions are drawn from our second consultation paper published as part of a three-year review of automated vehicles. For more information about this project, click [here](#).

The focus of our second consultation paper is how passenger-only automated vehicles might be used to supply passenger transport services to the public. We recommend that consultees read the consultation paper, which can be found on our website: <https://www.lawcom.gov.uk/project/automated-vehicles/>.

A shorter summary is also available on the same page.

We are committed to providing accessible publications. If you require this consultation paper to be made available in a different format please email [automatedvehicles@lawcommission.gov.uk](mailto:automatedvehicles@lawcommission.gov.uk) or call 020 3334 0200.

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## About you

What is your name?

Joachim Brandt, Head of Electric and Autonomous Vehicles

What is the name of your organisation?

Gemserv Limited, 8 Fenchurch Place, London, EC3M 4AJ

Are you responding to this consultation in a personal capacity or on behalf of your organisation? (Please select only one item)

Personal response

Responding on behalf of organisation

Other

If other, please state:

What is your email address? (If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.)

What is your telephone number?

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# Operator licensing: a single national system (Chapter 3)

**Consultation Question 1:** Do you agree that Highly Automated Road Passenger Services (HARPS) should be subject to a single national system of operator licensing? (Please select only one item.)

Yes

No

Other

Do not know / not answering

Please explain your answer:

We agree in the context of HARPS being implemented as a digitally integrated service, the process of operator licensing can be automated and simplified and hence in the UK context a single national system should be considered.

However, consideration should be given that HARPS could be a global service provision across national jurisdiction and as such international standards would be desirable with regards to the automated digital processes to deliver HARPS beyond national borders.

While HARPS is specific to road transport, this premise may need to be reassessed as new types of vehicles may not have such limitations and may support the multi-modal operation. For example, vehicles may be able to fly in certain areas, picking up passengers from rooftops, while in other areas for example in less congested urban areas may switch to travelling on the road as part of the same journey.

In this context, a single, digital operator licensing system would bring great benefits in terms of scalability and level of automation which would allow to track and enforce a much higher level of compliance at a per journey granularity.

**Consultation Question 2:** Do you agree that there should be a national scheme of basic safety standards for operating a HARPS? (Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain your answer:

We agree with the proposed rationale but would suggest that consideration should be given to digital and highly automated processes in the context of **Connected** Autonomous Vehicles where the connected infra-structure provision could provide a much tighter, automated enforcement of safety standards as part of HARPS operation for each journey. International standardisation would be desirable to handle the digital integration and hand over of such processes as the vehicle passes different jurisdictions such as national borders.

## Operator licensing: scope and content (Chapter 4)

**Consultation Question 3:** 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 the services of a human driver or user-in-charge in the vehicle (or in line of sight of the vehicle)?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain your answer:

It is suggested that a HARPS operator licence should be required for any vehicle that has HARPS capabilities enabled. It is irrelevant what business model; ownership model or operational use is associated with the vehicle. HARPS is part of the connected infrastructure and the set of processes and rules that governs it.

**Consultation Question 4:** Is the concept of "carrying passengers for hire or reward" sufficiently clear? (Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain your answer:

The concept is clear, but it is not exclusive to HARPS. Hence a more generic approach is needed to govern, regulate, control and enforce compliance of HARPS vehicles.

**Consultation Question 5:** 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.

Please share your views:

It is suggested that HARPS operator licensing applies to all HARPS enabled vehicles. The rationale here is that no matter what the circumstances, the responsibility between the autonomous vehicle and passenger are separated in the HARPS context and that the HARPS enabled vehicle needs to remain compliant to the connected infra-structure it operates in at all times during its journey.

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

Please share your views:

Exemptions should only be applicable in highly controlled areas of operation for the advancement of technological solutions. Bottom line is, a HARPS enabled vehicle needs to be compliant to the HARPS operator license in order to guarantee to be fit for use.

**Consultation Question 7:** 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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

It is important to recognise that the provisioning of HARPS may have very little in common with current transport solutions and the legal obligations imposed on human or legal entities.

The human dimension has been removed and the end to end operational processes may be close to 100% automation.

Hence, examples such as highly automated production lines with autonomous robots where human's may be co-located to assist may be more related to the underlying principles of HARPS.

Business operational aspects and the legal obligations and responsibilities to go with this should be separated out from the provision of HARPS which is likely to be fully automated.

For example, whether a HARPS vehicle is fit for a journey may be authorised on a per journey basis and monitored in real-time based on the intelligent algorithmic operation embedded in the connected autonomous vehicle and the connected infra-structure it operates in. There is no human intervention for which legal responsibility can be assigned while the vehicle is HARPS enabled.

**Consultation Question 8:** How should a transport manager demonstrate professional competence in running an automated service?

Please share your views:

The role of a human transport manager is likely to be made redundant and will be embedded in the fully automated digital service platforms that provision HARPS.

In this context, it is important to find a viable mechanism for the legal system to legislate what in essence are autonomous digital systems which may no longer be accessible to human intervention or investigation due to scale and complexity.

**Consultation Question 9:** 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"?

(Please select only one item)

Yes

No

Other



Do not know / not answering

Please explain:

Given the complexity of HARPS enabled vehicles, it is unlikely that anyone else other than the manufacturer of the vehicle and the connected infra-structure provider will have the means to do so. This is further enforced by the fact that the manufacturer may continue to modify the vehicle through over the air software updates. The level of automation, autonomous features and complexity of the automated system environment require a different approach.

In the proposed highly automated HARPS system environment the operation license of the vehicle may be granted and expire for each journey with the premise that the vehicle manufacturer in real-time checks and declares operational fitness of the HARPS enabled vehicle for each journey, including automated record keeping which is subject to disclosure in case of an incident.

This is in recognition that HARPS is the provision of a complex, automated and autonomous system for the provision of large-scale travel transactions where the human dimension has been removed.

From a legislator's perspective, it is critical that the legislative requirement and enforcement is embedded as part of the system which is also part of granting a HARPS operator license.

**Consultation Question 10:** Do you agree that legislation should be amended to clarify that HARPS operators are "users" for the purposes of insurance and roadworthiness offences?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

This needs further investigation as the level of technology may be beyond human responsibility. Hence system compliance and the level of responsibility that arise in the context of ownership need to be addressed at the system technology level. In the context of the technology capabilities and enforcement of compliance, there is no reason as to why this is not part of the automated processes and hence the root cause of offences is unlikely to reside with the users.

**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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

This is not in the nature of HARPS. It needs to be investigated how these concepts relate to a highly automated system and it suggested that other legal duties in this context have not yet been identified. HARPS is not the progression of legacy systems, it is a paradigm shift and needs to be addressed as such.

**Consultation Question 12:** 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)?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

In the context of a highly automated system, this should be investigated as part of the HARPS system implementation. It is suggested that mapping legacy regulations on a novel system that does not require human operation are unlikely to meet the need.

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

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

It is suggested that legislation may not be the best instrument as technology advancement inflicts high levels of change over short periods of time. An alternative solution must be found that is credible and able to stay in step as HARPS evolves.

**Consultation Question 14:** 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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

This is not a HARPS specific requirement and hence one should consider whether existing legislation is applicable.

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

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

Not sure why a consumer would use a HARPS vehicle with no pricing information attached to the service being provided. This is likely to be part of a fully automated system where the digital infra-structure handles the commercial transactions.

**Consultation Question 15:** Who should administer the system of HARPS operator licensing?

Please share your views:

This needs to be investigated in the context as to how the overall system is intended to function, considering that HARPS vehicles may cover long distances across multiple jurisdictions.

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

Please share your views:

It is suggested that the underlying technology and governance processes could be very similar and hence it is worthwhile to investigate whether this could be rationalised into a single approach.

## Privately-owned passenger-only vehicles (Chapter 5)

**Consultation Question 17:** 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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

Yes, the trigger point is whether a vehicle is HARPS enabled and operates in autonomous mode. As soon as the vehicle becomes part of the "HARPS system" it needs to be compliant to the applicable rules and regulations.

**Consultation Question 18:** Do you agree that where a vehicle which is not operated by a HARPS licence-holder is authorised for use without a user-in-charge, the registered keeper 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?

Please select only one item

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

This is an operational aspect. Vehicles not in HARPS operation are out of scope.

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

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

It is suggested that this is a risky assumption in the HARPS context.

**Consultation Question 20:** 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.

Please share your views:

It is suggested, that as part of a highly automated transport approach, a system level solution should be considered. The legislative requirements should be embedded in the HARPS operations model and as such become enforced as part of the system. To assume that compliance is anchored on manual "user intervention" e.g. the vehicle has the latest software doesn't seem to be in the nature of how HARPS enabled vehicles would operate.

(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?

Please share your views:

This creates unnecessary risks. Should always be part of the HARPS automated processes and fully automated. Responsibility for a vehicle / system that is designed to be free from human intervention needs to be administrated and enforced for compliance by the system itself for every single journey. Hence it is suggested that existing regulations are not suited to be migrated to HARPS.

**Consultation Question 21:** 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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

Vehicles that are operated outside HARPS operate outside HARPS regulations. Consideration should be given as to possible mixed mode operations e.g no HARPS, HARPS, HARPS + User, .... and the arising circumstance that need to be accommodated as part of the legislation.

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

Please select only one item

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

Compliance and enforcement should be embedded as part of the automated system processes. HARPS present a paradigm shift and hence legislation needs to be developed in accordance with the new paradigm.

**Consultation Question 23:** 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.

Please share your views:

It is suggested that this may not necessarily fall in the scope of the safety assurance agency.



## Accessibility (Chapter 6)

**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.

Please share your views:

It is suggested that this should be use case driven and hence may be better homed as part of standardisation which legislation can refer to.

**Consultation Question 25:** 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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

While this may well be the case, it is suggested that this needs further investigation in the context of applicable technologies, type of vehicles and their respective purpose. For example, a HARPS eScooter may never be suitable for everyone.

**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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

It is suggested that this needs to be addressed as part of the capabilities embedded in the vehicles and the capabilities embedded in the supporting infra-structure in the context of a highly automated transport system. Without defining the system capabilities, there is nothing legislation can latch onto to enforce the desired outcome.

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

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

Need to define the ground rules first how HARPS will be implemented as a transport system.

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

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

Need to define the ground rules first how HARPS will be implemented as a transport system.

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

Please share your views:

Yes, delivering standards against use cases expected to deliver services in the market is a pre-requisite before legislative instruments can add value.

**Consultation Question 28:** 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.

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

It is suggested this can be covered by giving the consumer a mechanism to report if standards are not met instead of default data collection and reporting, i.e. report if things don't work. On the other hand, highly automated processes in the HARPS context could provide a wealth of data and insights which however may not be a pre-requisite for HARPS services to be provisioned in an efficient and fit for purpose way.

## Regulatory tools to control congestion and cruising (Chapter 7)

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

Please share your views:

HARPS may present new challenges but also alternatives how to deal with an environment that may be highly digitally integrated and can implement change instantly.

This should be further investigated with a clear understanding of how to transition to a new approach if deemed beneficial.

It is suggested that fine control and manual enforcement may become superfluous.

**Consultation Question 30:** 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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

This needs to be reviewed and further investigated as HARPS is likely to work very differently. It is important to look at the bigger picture and assess the potential outcome of a choice of measures.

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

Please share your views:

This needs to be transparent, but it is suggested that it is premature to form a view on this until there is more clarity as to how HARPS will function for real.

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

(Please select only one item)

Yes

No

Other

Do not know / not answering

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.

Please explain:

There is potentially scope for this, but there are too many unknowns to form a view on this. The reasons being that the technologies embedded in the infra-structure and vehicles in the HARPS context may allow for much more dynamic control of actual traffic flows. Hence fixed schemes may not be appropriate.

**Consultation Question 33:** 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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

If so, how long should the period be?

Please explain:

There is insufficient evidence to warrant such measures. For example, HARPS may allow for much higher traffic density and capacities due to the removal of limitations a human driver would have.

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

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

In line with Q33, this needs further investigation and no legislation should be introduced until there is clarity and evidence to this effect.

## Integrating HARPS with public transport (Chapter 8)

**Consultation Question 35:** 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?

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

It needs further investigation once there is clarity about how HARPS will be implemented as current legislation may not take account of opportunities the new technologies can deliver in this context. It is suggested that this may be beyond the evolution of existing services and hence migration of existing legislation may not be appropriate.

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

Please select only one item

(Please select only one item)

Yes

No

Other

Do not know / not answering

Please explain:

It is risky to infer from existing legislation how HARPS will be provisioned. It is likely to be subject to significant change.

**Consultation Question 36:** 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.

Please share your views:

HARPS in conjunction with a digitally integrated system offers many more opportunities to deliver services of choice on demand. It is likely that current legislation does not migrate well to the new paradigm of HARPS.

**Consultation Question 37:** 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.

Please explain:

Would suggest that HARPS is unlikely to fit this narrow definition and that legislation is needed that is more in line with the expected capabilities HARPS will bring.

**Consultation Question 38:** 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.

Please share your views:

Would suggest this is a natural progression of digitally integrated services e.g. google map is more than a map and already provides a range of integrated transport option to complete a journey. Would suggest this is more a topic of standards to facilitate interoperability rather than intervention by the legislator.



## Other comments

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

Please share your views:

It is absolutely appropriate that the Law Commission consults on these matters in a timely manner as substantial change can be expected. However, it is important to recognise that evolving existing legislation to match the new era of HARPS may not be sufficient or indeed inappropriate and that a more detailed analysis is required in particular in the context of the paradigm shift driven by the advancement of technologies and the ever-increasing level of digital integration and automation.