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Metropolitan Police Submission – Automated Vehicles Consultation

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1. Introduction

1.1 The Metropolitan Police Service (MPS) welcomes this opportunity to provide evidence to inform the work of the Law Commission consultation into automated vehicles.

1.2 The MPS has a long-standing interest in the field of connected and autonomous vehicles (CAVs). It has been closely involved in several on- and off-road trials of the technology. An MPS officer sits on the advisory boards of most major trials and consults with other testing organisations on a regular basis.

1.3 The MPS understands and supports Parliament’s ambition for the United Kingdom to lead the development of CAV technology. MPS involvement is intended to:

- Assist in ensuring the legality and safety of trials.
- Prepare emergency services to respond to any incident occurring during trials.
- Coordinate the planning and response with other police force areas as appropriate.
- Exploit opportunities to develop emergency services’ understanding of CAV technologies, in order to inform future planning.
- Engage with those considering CAV-related policy and law in order to ensure that the views of emergency services are included.

1.4 We would welcome the opportunity to provide oral evidence to the committee if required.

1.5 The format of the MPS submission mirrors that of the consultation document:

<https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jxou24uy7q/uploads/2019/10/Automated-Vehicles-Consultation-Paper-final.pdf>

and its summary:

<https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jxou24uy7q/uploads/2019/10/Automated-Vehicles-summary-of-consultation-paper-final.pdf>



2. MPS Response

(i) Chapter 3. 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?

MPS Response

The MPS supports this suggestion. It will necessary to ensure that law enforcement authorities have access to real-time data, as is currently the case for vehicle and driver data held by DVLA. Successful implementation of a robust licensing system should effectively mitigate the risks identified in the consultation.

Consultation Question 2.

Do you agree that there should be a national scheme of basic safety standards for operating a HARPS?

MPS Response

The operation of HARPS raises issues beyond conventional “construction & use” into methods of working and software development. While we feel it is desirable in principle to develop a regulatory framework, it must strike a balance between over-simplicity and an unwieldy audit of all associated factors.

(ii) Chapter 3. Operator Licensing – scope and content

Consultation Question 3.

Do you agree that a Highly Automated Road Passenger Services (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)?

MPS Response

Broadly speaking, the MPS supports this suggestion. There may need to be more work on defining the level of driver assistance bringing a vehicle within scope.

Consultation Question 4.

Is the concept of “carrying passengers for hire or reward” sufficiently clear?

MPS Response

The MPS believes that existing case law with regard to conventional vehicles should be explicitly cited in guidance to operators.

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.

MPS Response

The MPS strongly agrees with the tentative view expressed (4.45). It is difficult to envisage a case in which the community benefits outweigh the safety benefits of an effective licensing regime.

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 need for a HARPS operator licence (or to modify licence provisions for such trials).

MPS Response

The MPS recognises that CAV technology is a fast-paced area of development. The MPS understands that the exemptions for conventional development vehicles have proved safe and effective. The DfT on behalf of the Secretary of State has provided oversight of the system and the MPS sees no reason to oppose a similar system for the testing of CAVs.

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?

MPS Response

The MPS has an interest in the identification of an individual or group of individuals on whom the responsibility for safe operation lies. This is necessary when investigating criminal offences, or on behalf of the Coroner. Existing trials produce detailed safety cases which may inform this area.

Consultation Question 8.

How should a transport manager demonstrate professional competence in running an automated service?

MPS Response

The MPS suggests that CAV trials' safety cases may inform this area of research.

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"?

MPS Response

The MPS supports this suggestion and would welcome the opportunity to contribute to further work in this area. The MPS recommends that both hardware and software are maintained.

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?

MPS Response

The MPS supports this suggestion.

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?

MPS Response

The MPS is keen that HARPS are at least as safe as conventional alternatives and that any regulatory framework at least as stringent. The MPS would welcome the opportunity to contribute to further work in this area.

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)?

MPS Response

The MPS sees the benefits in such a system but anticipates resistance, both in terms of overly onerous regulation and due to the commercial confidentiality and market sensitive nature of miles travelled. The MPS would welcome the opportunity to contribute to further work in the area of untoward event reporting.

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?

MPS Response

Due to the experimental nature of existing trials and the pace of change, the MPS recommends statutory guidance should be included from implementation with regular updates as appropriate.

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

MPS Response

This subject is outside the remit of policing.

Consultation Question 15.

Who should administer the system of HARPS operator licensing?

MPS Response

This subject is outside the remit of policing.

Consultation Question 16.

We welcome observations on how far our provisional proposals may be relevant to transport of freight.

MPS Response

While the safety of passengers is not a factor in freight vehicle operations, the safety of other road users remains critical. Furthermore, it seems quite possible that unused passenger capacity could be efficiently used for the movement of goods in the same vehicle at off-peak times. This raises the interesting potential for a simple, dual purpose regulatory framework. The MPS would welcome the opportunity to contribute to further work in this area.

(iii) Chapter 5. Privately-owned passenger-only vehicles

Consultation Question 17.

Do you agree that those making "passenger-only" vehicles available to the public should be licensed as Highly Automated Road Passenger Services (HARPS) operators unless the arrangement provides a vehicle for exclusive use for an initial period of at least six months?

MPS Response

The MPS would like further consultation to understand how the proposed regulations for HARPS might be adopted instead by the retailer or manufacturer.

Consultation Question 18.

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?

MPS Response

The MPS is open-minded regarding this suggestion but believes that there is scope for the manufacturer, retailer or lessor to adopt some responsibility in these areas.

Consultation Question 19.

Do you agree that there should be a statutory presumption that the registered keeper is the person who keeps the vehicle?

MPS Response

The MPS agrees that, in the absence of compelling evidence to the contrary, this is an appropriate presumption.

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.
- (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?

MPS Response

The MPS believes that such an arrangement ensures that legal responsibilities are accepted and understood by the relevant party.

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?

MPS Response

The MPS suggests that this proposal introduces an additional regulatory framework of licensed maintenance providers. An alternative would be that existing vehicle testing regimes are updated to ensure that CAVs are tested for maintenance and software updates. This has the advantage of being widely understood and simple to enforce.

Consultation Question 22.

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.

MPS Response

The MPS believes that the principle that the registered keeper bears the responsibility is sufficiently clear.

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.

MPS Response

This question falls outside the remit of policing.

(iv) Chapter 6. Accessibility

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.

MPS Response

The MPS supports the principle that existing protections for people with disabilities should not be eroded but rather increased by HARPS.

Consultation Question 25.

We provisionally propose that the protections against discrimination and the 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?

MPS Response

The MPS supports the principle that existing protections for people with disabilities should not be eroded but rather increased by HARPS.

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

MPS Response

Good communication and vehicle design should address the first two points. The MPS envisages practical difficulties in providing support at pick-up and set-down points but this concern may be addressed by early consultation with charities and groups such as Wheels for Wellbeing.

Consultation Question 27.

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

MPS Response

The MPS supports the principle that existing protections for people with disabilities should not be eroded but rather increased by HARPS.

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.

MPS Response

This question falls outside the remit of policing.

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

Consultation Question 29.

We seek views on whether the law on traffic regulation orders needs specific changes to respond to the challenges of Highly Automated Road Passenger Services (HARPS).

MPS response

The MPS is broadly supportive of digital TMOs.

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 122 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?

MPS response

This question falls outside the remit of policing.

Consultation Question 31.

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

MPS response

This question falls outside the remit of policing.

Consultation Question 32.

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.

MPS response

This question falls outside the remit of policing.

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 for an initial period? If so, how long should the period be?

MPS response

This question falls outside the remit of policing.

Consultation Question 34.

Do you agree that there should be no powers to impose quantity restrictions on the total number of HARPS operating in a given area?

MPS response

This question falls outside the remit of policing.

(vi) Chapter 8 Integrating HARPS with Regulatory tools to control congestion and cruising

Consultation Question 35.

Do you agree that a Highly Automated Road Passenger Services (HARPS) vehicle should only be subject to bus regulation:

- (1) if it can transport more than eight passengers at a time *and* charges separate fares; and
- (2) does not fall within an exemption applying to group arrangements, school buses, rail replacement bus services, excursions or community groups?

MPS response

The MPS acknowledges the need to be flexible in light of the potential for unanticipated change but believes that where possible, HARPS regulation should mirror that of existing mass transit systems.

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.

MPS response

The MPS emphasises the need for clarity in operation to allow effective enforcement.

Consultation Question 37.

We welcome views on whether a HARPS 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?

MPS response

The MPS believes that this is a common-sense definition.

Consultation Question 38.

We seek views on a new statutory scheme by which a transport authority that provides facilities for HARPS could place requirements on operators to participate in joint marketing, ticketing and information platforms.

MPS response

This question falls outside the remit of policing.

3. Conclusion

3.1 The MPS remains keen to engage with testing organisations, legislators and developers in the field of automated vehicles. In doing so, its primary objective is the preservation of public safety.

3.2 The MPS hopes that its contribution to the work of the Law Commissions will help to achieve this aim. The MPS remains keen to engage with the Law Commissions and other stakeholders in this area.

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