

M&WBLAF response to Law Commission Consultation 2 on Automated Vehicles

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?

YES

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

YES

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)?

YES

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

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.

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).

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?

YES

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

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”?

YES

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?

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?

YES, video evidence of accidents in remote rural areas should also be provided. Please see our comments in the first Consultation regarding CCVT evidence and making AVs instantly recognisable for the safety of vulnerable users such as equestrians/agricultural workers who are in charge of unpredictable animals. We respectfully point out that Byways are classed as Roads, but are often of much poorer quality surfacing, more remote making users more vulnerable and typically feature a greater diversity of users, in particular those who are vulnerable, disabled or elderly. HARPS operating in rural areas using PROWs could make a valuable contribution to improving access in isolated communities, especially for those no longer able to drive, and therefore the possible problems presented should be adequately addressed at an early stage.

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)?

YES

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?

YES

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

N/A

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

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

Does freight include crops being harvested and transported on PROWs? If so, yes. There is concern that our responses to the first Consultation regarding the implications for agricultural transportation on PROWs has not been considered thus far.

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?

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?

YES

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

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.

(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?

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

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.

The reporting of accidents by the 'registered keeper' could be difficult to prove negligence or blame without evidence, such as camera footage. The M&WBLAF made comments regarding the necessity for CCTV footage from Automated Vehicles on PROWs in the first Consultation. In remote rural areas there is a low likelihood of independent witnesses to provide reliable evidence both to decide blame in specific cases, and to collect meaningful data for ongoing development of regulation.

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.

N/A

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 could address.

Key benefits are likely to be enabling people with disabilities to travel to the same locations as non-disabled people.

Key concerns that regulation should address are how disabled passengers get in and out of vehicles and are kept safe during the journey, particularly if an unexpected event occurs.

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?

YES

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

Ensuring passengers can board and alight vehicles is crucial, as some people with disabilities, particularly physical impairments, could not do so unaided. They might also require assistance to find their seat on the vehicle if they were visually impaired. While it would be helpful to have extra support at designated points of departure and arrival, an on board 'user-in-charge' rather than a remote 'supervisor' would be beneficial to provide reassurance if there was disruption.

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.

National minimum accessibility standards would ensure consistency across HARPS operators. They should apply to a full range of disabilities, including hearing, visual, physical and mental conditions. For wheelchair users, standards could cover size of doorways, provision of ramps and devices to safely secure a wheelchair during transit. Assistance dogs for blind, deaf or other impairments should be included in the standards. Multiple methods of providing information, both visual and auditory should also be covered.

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.

A bank of data with regard to accidents on PROWs involving vulnerable users, both within and outside of the vehicle concerned. (Please see previous comments regarding the use of CCTV)

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.

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.

N/A

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?

N/A

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.

N/A

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.

N/A

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?

Yes, to protect overuse of urban PROWs, and the effect on other users. Six months.

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

NO.

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: (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?

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.

Consultation Question 37 (Paragraph 8.95): 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?

Encouraging use of mass transit: Mobility as a 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 could place requirements on operators to participate in joint marketing, ticketing and information platforms.

N/A