

**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.

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What is your name?

Garry Staunton

What is the name of your organisation?

UKAEA

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.]

Personal response

**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

There is a need to ensure that a clear minimum standard is met and that the overall approach is consistent.

**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

Must avoid the potential for a race to the bottom to emerge.

## **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

Needs to a clear basis for agreements between HARPS Operator and passengers otherwise liability could become confused.

What sort of insurance cover should a HARPS operator be mandated to carry?

Should those who run goods services fall under a HARPS operator licensing framework?

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

No

Does the expression "for hire or reward" mean that someone providing (for example) a demonstration of a CAV shuttle service at an event where there is no exchange of monies need a HARPS operator licence?

What happens when a vehicle carried goods and people at the same time?

### ***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.

It would be better for there to be a low cost, simplified, approach for community services, than an exemption. If there is an exemption you may find the boundary between community and commercial services turns out not be clear. Also without a license you run the risk of losing the ability to enforce minimum standards, require insurances etc.

**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).

A system that allows for time-bound modifications to the license conditions is preferable to blanket exemptions. If a particular case requires the modification to be tantamount to an exemption this can be accommodated on the basis of the case presented.

### ***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

In so far as, if successful, the applicant will have to demonstrate that they are capable of discharging all licensing conditions the first three conditions are a firm requirement. There needs to be a designated responsible person in the organisation, but this does not necessarily have to be a transport manager.

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

I feel that responsibility for meeting license conditions is a Director level responsibility, not a manager one. In this scenario hiring decisions are left to the applicant organisation, but against a backdrop of their knowing they may have to prove competence of staff in Court.

#### ***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

Without this, there is no clarity where responsibility for roadworthiness sits. Hence there are civil liability ramifications associated with the HARPS Operator role that need to be clearly assigned..

**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

#### ***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

These duties need to be at the core of the license conditions.

**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

The collection of 'near miss' data is a key part of (for example) aviation safety development and hence should be encouraged here. However, there are unanswered questions about how such data will be collected and analysed (by the proposed Accident Investigation Unit?) and exactly what constitutes a near miss. Without further analysis this could become a good idea in principle but impractical in operation.

**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

#### ***Who should administer the system?***

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

Whatever system emerges it needs to be capable of operating in tandem with existing taxi and PSV licensing regimes.

#### ***Freight Transport***

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

Needs more analysis, especially when you consider that the same vehicle is likely to be capable of carrying both freight/goods and passengers. Such hybrid vehicles are likely to emerge as a response to the need to address urban congestion by avoiding the risk of vehicle covering significant distances whilst empty.

### **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

Responsibility for the vehicle, its insurance, systems and maintenance needs to be clear at all times. Hence the key distinction between HARPS and private leasees should be around clarity of civil liability with discussion of time frames playing only a minor role.

### ***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

See above - ownership models should not be used as a way of avoiding responsibility and/or liability.

**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 there has been an infringement then the registered keeper needs to be the first port of call.

**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?

Whilst a logical approach, there is the potential for significant confusion if/when the lessor claims not to be aware that the duties have been transferred (e.g. they sit in clause 47 of a boiler-plate agreement).

(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?

Both parties need to be fully aware of the implications of what is being signed and this will probably require the emergence of a simple, clear/readable, widely understood standard set of words.

### ***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.

Yes - we cannot run the risk that people enter into agreements around use of vehicles in the same way that we enter into (unread) software agreements because they are too long and convoluted to read.

## **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.

HARPS regulation needs to align with the UK 'Future of mobility: urban strategy' and that the extension of the principles underlying this are applied in rural and peri-urban contexts.

### ***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

Autonomous vehicles can, in principle, bring benefits to who struggle to meet their mobility needs but do not fall within the remit of the Equality Act (e.g. the frail) and we need to ensure that operators of HARPS cannot ignore the needs of such groups.

### ***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

We should avoid the emergence of vehicle fleets that increase social inclusion. However, it needs to be recognised that no single vehicle design is capable of meeting the needs of everyone. How to ensure that HARPS Operators provide a fleet of sufficient diversity to address the full spectrum of need probably merits a consultation in its own right.

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

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

Yes

This information is required and needs to be accessible to those with sight or hearing impairment.

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

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

No

Increasing infrastructure at designated points will encourage operators to drop their passengers at locations that do not carry this overhead. On the other hand enforcing use of designated drop-off points reduces the ability of the service to flexibly meet need.

### ***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.

Yes we need minimum standards, but how many vehicle options these convert to, and how we demonstrate that they add up to a comprehensive, and robust, solution is a substantial exercise.

### ***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.]

No

Data on use of services by groups such as the elderly of mobility impaired needs to be collected but putting responsibility for this on HARPS operators may not be appropriate. Whilst they can be asked to report on how many such persons they carry and their experience can be collected such data cannot provide insight into the requirements of persons who believe (or know) that the vehicles are not suited to their needs.

## **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.

Need to be able to mitigate the potential for a proliferation of competing schemes causing significant local congestion (we need to learn from things like dockless bike schemes where multiple entrants collectively far exceeded local market need with a result at loss of credibility and the appearance of excess vehicles).

There is also an interesting discussion of if/how TROs might be applied to passengers rather than vehicles - should carrying a 'blue badge holder' enable access to otherwise restricted roadways or drop-off points?

### ***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

Need to manage congestion.

**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.]

Other

A complex question - want to avoid a rash of start-ups many of which will inevitably fail, but predicting which will fail is virtually impossible and would restrict innovation.

Need to ensure that all actors meet their HARPS license conditions.

## **CHAPTER 8: INTEGRATING HARPS WITH PUBLIC TRANSPORT**

### ***The current system of bus regulation: HARPS as mass transit***

**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.

I am not an expert on bus regulation but suspect that the blanket imposition of bus regulations on 8+ seater AVs would throw up a number of potentially perverse outcomes. As a minimum any conflation of bus and HARPS regulation will require that the bus regulations be reviewed at the same 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.

Not sure what benefits such an approach would bring, especially given the 'looseness' of the definitions. For example if a HARPS vehicle picks up 2 people from their homes and delivers them to an office and then takes them home again at the end of the day.