

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 or call 020 3334 0200.

ABOUT THE LAW COMMISSIONS

The Law Commissions are statutory bodies created for the purpose of promoting law reform. The Law Commissions are independent of Government. For more information about the Law Commission of England and Wales please click [here](#). For more information about the Scottish Law Commission please click [here](#).

Publication of responses to this consultation: We may publish or disclose information you provide us in response to this consultation, including personal information. For more information on how we consult and how we may use responses to the consultation, please see page ii of the consultation paper. For information about how we handle your personal data, please see our [privacy notice](#).

PRIVACY POLICY

Under the General Data Protection Regulation (May 2018), the Law Commissions must state the lawful bases for processing personal data. The Commissions have a statutory function, stated in the 1965 Act, to receive and consider any proposals for the reform of the law which may be made or referred to us. This need to consult widely requires us to process personal data in order for us to meet our statutory functions as well as to perform a task, namely reform of the law, which is in the public interest. We therefore rely on the following lawful bases:

- (c) Legal obligation: processing is necessary for compliance with a legal obligation to which the controller is subject;

(e) Public task: processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

Law Commission projects are usually lengthy and often the same area of law will be considered on more than one occasion. The Commissions will, therefore retain personal data in line with our retention and deletion policies, via hard copy filing and electronic filing, and, in the case of the Law Commission of England and Wales, a bespoke stakeholder management database, unless we are asked to do otherwise. We will only use personal data for the purposes outlined above.

FREEDOM OF INFORMATION

We may publish or disclose information you provide us in response to our papers, including personal information. For example, we may publish an extract of your response in our publications, or publish the response in its entirety. We may also share any responses received with Government. Additionally, we may be required to disclose the information, such as in accordance with the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002. If you want information that you provide to be treated as confidential please contact us first, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic disclaimer generated by your IT system will not be regarded as binding on the Law Commissions. The Law Commissions will process your personal data in accordance with the General Data Protection Regulation, which came into force in May 2018.

Any concerns about the contents of this Privacy Notice can be directed to:
enquiries@lawcommission.gov.uk.

About you

What is your name?

Andy Cope

What is the name of your organisation?

Sustrans

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?

If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

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:

Differences in operator approaches in respect of, for example, buses, integrated ticketing, etc, have led to confusion in systems for both users and legislators. Recognising that we could be describing quite a wide variety of services in a wide variety of settings, on balance we think that a standardised approach will be preferable.

ADDITIONAL POINT – I worry about the term HARPS, and it's provenance, i.e. whether it has come from the automated vehicle promoter lobby. I haven't heard this term prior to this consultation round. It is quite an 'emotive' term in some respects, offering promise of protection, unequivocal safety and cleanliness. I appreciate the need for a shorthand term, but this feels too pejorative to me!

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:

Safety is paramount, and standards must be consistent in design and implementation.

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:

Licensing is key to standardisation, and therefore to effective management of the public realm, and to user engagement with the service.

We argue against licensing for bicycles. The key difference is the extent which users are dependent on the role of other individuals being adequately performed. There is no such user-provider dependency for cycling, therefore licensing for bicycles is not appropriate.

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:

Yes, I think so. There may be a slight ambiguity over e.g. hitchhiking, although this is far from prevalent these days.

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:

I can't immediately think of any

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:

I would argue that there should be no license exemption. There may be special/ distinct licensing arrangements in some trial circumstances, but the fact of needing a license should not be waived altogether

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:

Financial standing should include adequate insurance. Adequacy of the operators safety record should also be a factor

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

Please share your views:

Yes. A high bar should be set for qualification. I am not aware that such an appropriate qualification currently exists

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:

Just as the service provider is responsible in all other fields

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:

I have hitherto in our response used the term 'user' to refer to the 'passenger'. I am not sure what is the appropriate term. We would refer to a 'bus user' as the passenger on a bus. So terms need to reflect protocols from other fields of transport and align with existing legislation

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:

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:

Miles travelled is among data that can sometimes be considered commercially sensitive by bus companies, I think, so it will be useful to get this written into formal legislation

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:

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:

We see the rail companies struggling with this now – a major barrier to rail use. Any steps that can be taken to avoid this sort of scenario will be most welcome

(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:

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

Please share your views:

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

Please share your views:

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:

I don't think that this exclusion should apply

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:

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:

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:

(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:

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:

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:

Current car pooling and sharing models seem to work in most instances. But I am not familiar with the details of legislation required to make this happen. We could learn from an organisation like CoMoUK (Collaborative Mobility UK)

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:

Yes, they should.

ADDITIONAL POINT ON THIS SUBSECTION – I am concerned that private ownership could lead to a reduction of the effectiveness of HARPS in terms of reducing car use, and all of the benefits that go alongside that

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:

Anything that limits accessibility to privileged groups (privileged financially, in terms of mobility, educational, demographic factors, etc) should regulated out of the service. This means that the physical design of vehicle, the operational parameters that are set, the ways that algorithmic programming is used to set priorities and preferences, and the extent of assumptions about sensory or educational abilities should all be reflected in a system that operates fairly. Pricing structures that enable access to the poorest in society may also be considered.

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:

As a minimum

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:

(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:

(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:

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:

See response to Q24

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:

Provided that the data reported is used in a non-discriminatory 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:

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:

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:

The appropriate balance should be a derivative of the relative damage of movement or parking. I am not clear what the right formula is, but it certainly depends on some of the parameters of operation, such as fuel type and efficiency (extent of damage in terms of air quality and carbon emissions), other environmental damage (e.g. noise, visual intrusiveness), and amount of space required (e.g. for parking, charging, loading, etc)

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:

As a broad point of principle, the charges for private vehicle use should reflect the costs of damage inflicted. This is very far from the case at the moment.

The permitted purposes should include measures specifically to reduce traffic volumes.

We would recommend that use of funds should be concentrated in the areas where damage is incurred.

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:

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:

There should be powers to impose quality restrictions on the total number of HARPS operating in a given area

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:

(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:

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:

We must be wary of the impacts of DEregulation of buses – bus service quality has declined dramatically in recent years as a consequence of deregulation. Introduction of HARPS can take much learning from commentary on the impact of regulation/ deregulation of buses

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:

There are many more parameters than just these two that should be used to determine what constitutes a 'bus' service

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:

Integrated ticketing barely exists anywhere in the UK outside of London. Again, there are many lessons to be learned in the context of HARPS about why this hasn't happened. We would be supportive of integrated ticketing – just as we are supportive of integrated ticketing in the current public transport paradigm.

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: