

Automated Vehicles Team
Law Commission
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Re: Law Commissions Consultation Paper 3: Automated Vehicles – A regulatory framework for automated vehicles

About DPTAC

The Disabled Persons Transport Advisory Committee (DPTAC) was established under section 125 of the Transport Act 1985 to advise the Government on the public passenger transport needs of disabled people. We welcome the opportunity to comment on proposals for the introduction of automated vehicles on GB roads. This technology has the potential to enhance safety and improve the quality of life of many disabled people, but it also comes with significant risks. It is essential that the views of disabled people help shape the development of this technology and the regulatory framework from the outset.

Introductory Statement

We welcome the opportunity to respond to the Law Commission's Consultation Paper 3 – A regulatory framework for automated vehicles.

Disability affects some 14 million people in the UK. It includes physical or sensory impairments as well as 'non-visible' disabilities such as autism, dementia, learning disabilities or mental health conditions. For many people a lack of mobility or confidence in using the transport system is a barrier to being able to access employment, education, health care and broader commercial opportunities (for example shopping), and a social life.

In this context, the Equality Act 2010 was introduced with a key aim to ensure that the elimination of discrimination, harassment and victimisation of disabled people (in addition to other people identified as having a Protected Characteristic as detailed in the Act) is addressed. Furthermore, the Equality Act 2010 requires that robust approach is taken to advance equality of opportunity and foster good relations for disabled people under the Public Sector Equality Duty.

Consultation Question 1

We provisionally propose that:

- (1) a vehicle should not be classified as self-driving if, with the ADS engaged, the user-in-charge needs to monitor the driving environment, the vehicle or the way it drives;
- (2) it is nevertheless compatible with self-driving to require the user-in-charge to respond to a clear and timely transition demand which:
 - (a) cuts out any non-driving related screen use;
 - (b) provides clear visual, audio and haptic signals; and
 - (c) gives sufficient time to gain situational awareness;
- (3) to be classified as self-driving, the vehicle must be safe enough even if the human user does not intervene in response to any event except a clear and timely transition demand.

Do you agree?

DPTAC Response

Yes, with some caveats. 'Safe enough' should be fully understood according to the range of situations which might occur. Further, transition demands would likely involve mechanical interventions, which can break down and fail. There should be a requirement to ensure that the mechanical elements needed to deliver a transition demand are included in an annual MOT check. Finally, measures such as these might cause discomfort for people with certain conditions. Would there be an option to switch off activation systems of this nature in the event that a person may need to / choose to do so, or would it be a mandatory safety requirement to ensure that such measures cannot be isolated?

Overall, we note it is essential that there should be thinking about ways disabled people will be able to use transition demand features early on. We strongly suggest that further research is required in this area, collaborating with Motability. We discuss this further below.

Consultation Question 2

We welcome views on whether self-driving features [*which only drive some of the time and therefore rely on an element of conventional driving such that users must have a driving licence*] should be designed to ensure that they can be used by people with hearing loss. In answering this question, we also welcome views relevant to any other disability that also does not prevent people from holding a driving licence.

DPTAC Response

It is important that self-driving vehicles can have adaptations (e.g. lightening the steering) fitted to them to allow disabled people who cannot operate conventional vehicle controls to still drive self-driving vehicles. There are numerous different adaptations and it might be worth speaking to Motability to see what they are and if they would be compatible with

self-driving controls. Additionally, are the ‘obstacles’ which transition demands may present to people who are profoundly deaf and can hold a car driving licence fully understood? It may be useful to give further consideration to this aspect, and possibly commission a piece of research to better understand potential issues and possible solutions. It may also be useful to ascertain whether any similar research has been undertaken elsewhere (other countries) to help inform this aspect.

We note that the need to consider diverse needs goes beyond those that are deaf or hearing impaired when it comes to driving licenses, for example arthritis, dexterity issues also need to be considered.

Consultation Question 3

We provisionally propose that the decision whether a vehicle is sufficiently safe to “safely drive itself” should be made by the Secretary of State, as informed by advice from a specialist regulator.

Do you agree?

DPTAC Response

Yes.

Safety measures should be reviewed on an ongoing basis (e.g. any accidents arising from this means of driving) to determine whether new approaches need to be considered. This might also be an opportunity to explore how this point is addressed in other countries (assuming this hasn’t already been considered).

Consultation Question 4

We welcome observations on which of the following standards is most appropriate when assessing the safety of automated vehicles:

- (a) as safe as a competent and careful human driver;
- (b) as safe as a human driver who does not cause a fault accident;
- (c) overall, safer than the average human driver.

DPTAC Response

Option (a) is most appropriate because a journey in any vehicle starts and finishes with a competent (and hopefully) careful driver. Options (b) and (c) are potentially rather subjective in approach and so we are less sure about these.

Consultation Question 5

We welcome observations on how automated vehicles can be made as safe as reasonably practicable.

DPTAC Response

It may be difficult to define what 'reasonably practicable' is and it could be subjective.

Consultation Question 6

We welcome practical suggestions for how AV regulators can fulfil their public sector equality duty.

DPTAC Response

This duty can be fulfilled by undertaking an Equality Impact Assessment (carried out by suitably qualified person[s]) on as many relevant elements of AV operation and mechanical / electrical integrity as possible, to ensure that all potential and actual adverse impacts are identified and resolved. Furthermore, consultation and engagement with potential end users of AVs will likely help inform a solutions-based approach where adverse impacts are identified.

Consultation Question 7

We provisionally propose that:

- (1) safety assessment should use a variety of techniques;
- (2) manufacturers/developers should submit a safety case to regulators showing why they believe that the automated driving system is safe;
- (3) regulators should:
 - (a) provide guidelines for what is in the safety case;
 - (b) audit the safety case;
 - (c) prepare guidance for manufacturers and developers on preferred standards; and
 - (d) carry out at least some independent tests.

Do you agree?

DPTAC Response

Yes. This approach appears to be well thought out.

Consultation Question 17

We provisionally propose that legislation should establish a scheme to assure the safety of automated driving systems following deployment, giving scheme regulators enhanced responsibilities and powers. Do you agree?

DPTAC Response

Yes. This seems like a reasonable suggestion. It would be useful to understand which agency or agencies would have this responsibility.

We also note that when there is an adaptation - either the manufacturer could consider developing these or external agencies - if externally fitted then this shouldn't dilute the

legitimacy of said automated driving systems. Liability should remain with the ADSE rather than be transferred to the entity making the adaptation. Insurance and safety assurance should remain valid. We are concerned that this could remove ADSE responsibility and disabled drivers won't be covered, consequentially having a negative impact on use of features for people who could otherwise greatly benefit from them.

Consultation Question 18

We provisionally propose that the enhanced scheme should give regulators the following responsibilities and powers:

- (1) scheme regulators should be responsible for comparing the safety of automated and conventional vehicles using a range of measures;
- (2) to do this the regulator should have power to collect information on:
 - (a) leading measures (instances of bad driving which could have led to harm) and
 - (b) lagging measures (outcomes which led to actual harm);
- (3) regulators should have power to require an ADSE:
 - (a) to update software where an update is needed to ensure safety and continued compliance with the law;
 - (b) to keep maps up-to-date, where an AV relies on maps to ensure safety and compliance with the law;
 - (c) to communicate information about an ADS to users in a clear and effective way, including where necessary through training.

Do you agree?

DPTAC Response

Yes. However, in respect of (1), are the measures used by regulators to compare safety fully understood and what reasoning might be behind these? In respect of (3)(b), this might involve a huge piece of work. There appears to be an ongoing issue with the reliability and effectiveness with GPS related SatNav equipment, especially in context of rural environments where a particular destination doesn't have a 'postcode.' In respect of (3)(c), this might also involve a huge piece of work. In principle, anyone who elects to use AV related vehicles should be required to pass a competency based test (as an extension to a driving licence) in order to drive an AV.

Consultation Question 21

What formal mechanisms could be used to ensure that the regulator administering the scheme is open to external views (such as duties to consult or an advisory committee)?

DPTAC Response

In the first instance, the establishment of a professional body consisting of the manufacturing sector, agencies with a service provision for enabling technology for AVs (eg SatNav), and users of AVs would most likely be very helpful. This could take the form of a working group to enable discussions to take place to progress issues, which need to be resolved as they arise.

Consultation Question 25

We provisionally propose that a specialist incident investigation unit should be established:

- (1) to analyse data on collisions involving automated vehicles;
- (2) to investigate the most serious, complex or high-profile collisions; and
- (3) to make recommendations to improve safety without allocating blame.

Do you agree?

DPTAC Response

Yes.

Consultation Question 40

We provisionally propose that, irrespective of the nature of the vehicle, a licensed operator should be under a duty to:

- (1) supervise the vehicle;
- (2) maintain the vehicle;
- (3) insure the vehicle;
- (4) install safety-critical updates and maintain cybersecurity; and
- (5) report accidents and untoward events (as defined by the regulator).

Do you agree?

DPTAC Response

Yes.

Consultation Question 42

We welcome views on how accessibility standards for Highly Automated Road Passenger Services (HARPS) might be developed.

We provisionally propose that:

- (1) an accessibility advisory panel should be formed to include:
 - (a) the Equalities and Human Rights Commission; and
 - (b) representative groups for disabled and older persons;
- (2) the Secretary of State should be obliged to consult with the accessibility advisory panel prior to setting any national minimum standards on HARPS;
- (3) there should be a duty to periodically re-consult the accessibility advisory panel at set intervals to ensure requirements keep pace with developing evidence of technical feasibility and changing needs.

Do you agree?

We welcome views on what the set interval for periodically re-consulting the accessibility advisory panel should be.

DPTAC Response

Yes. In terms of point 1 concerning an accessibility advisory panel, it might also be useful to add a professional body consisting of manufacturing stakeholders to this list (as suggested earlier) to ensure that current and future thinking from the Equalities and Human Rights Commission and representative groups for older and disabled persons is transferred and used to inform the evolution of AVs.

We suggest DVSA and Motability should be involved / disabled drivers associations and possibly vehicle adapters / software companies that develop or do the electronic adaptations. Alternatively, this should be another group supporting the accessibility advisory panel but it's important to speak to those who will be involved in Research and Development too. A talking shop isn't required but somewhere real consultations and developments occur to ensure disabled people are considered throughout the process.

We propose that the group meets initially four times a year, with the ability to convene an ad hoc meeting should an issue arise which needs immediate discussion. Disabled experts who are not affiliated with a charity or organisation should not be excluded, as they can often provide the best feedback and advice and are not restricted by charity politics or policy. It may be useful to follow the DPTAC model and then review effectiveness and efficiency of outputs over a two or three year period.

Consultation Question 55

We provisionally propose that:

- (1) for a vehicle to be classified as self-driving, it needs to record the location as well as the time at which the ADS is activated and deactivated;
- (2) the Government should work within the UNECE to ensure data storage systems for automated driving record these data; and
- (3) any national system to approve an ADS should require these data to be collected, subject to safeguards.

Do you agree?

DPTAC Response

Yes.

Consultation Question 58

We provisionally propose that:

- (1) when an ADSE applies for categorisation of its vehicle types as self-driving, it should present the regulator with details on how data will be recorded, stored, accessed and protected;

- (2) the regulator should only categorise a system as self-driving if it is satisfied that that the ADSE has systems to abide by its obligations under the GDPR.

Do you agree?

DPTAC Response

Yes. It might also be useful to set out milestones to review how well each approach is working and accordingly, implement any changes which may be required?

The Disabled Persons Transport Advisory Committee

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