

**Response to Law Commissions' third consultation on Automated Vehicles
(Law Commission Consultation Paper 252; Scottish Law Commission Discussion
Paper 171)**

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What is your name?

Onyeka Okeke

What is the name of your organisation?

Momentum Transport Consultancy

Are you responding to this consultation in a personal capacity or on behalf of your organisation?

Response on behalf of organisation

CHAPTER 4: SELF-DRIVING AND HUMAN INTERVENTION

Consultation Question 1 (Paragraph 4.114)

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?

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

Yes

We do think that a self-driving vehicle should be hands-free with little to no attention required from vehicle occupiers or users, however in events where some level of control is to be given back, this should also be facilitated but scenarios, where this happens, should not be too frequent.

For the second point, driverless vehicles should be able to detect obstacles or complicated highway arrangement or unclear signs well before approach and alert the user-in-charge with every other non-driving activities in the vehicle turned off.

The third point, humans are not to be held responsible for untimely engagement even on a clear and timely transition demand. A parking event should therefore be initiated when no engagement is made.

Consultation Question 2 (Paragraph 4.115)

We welcome views on whether self-driving features should be designed to ensure that they can be used by people with hearing loss.

The selling point of a driverless vehicle should be its potential for user inclusivity. Features should not only be available for users with hearing loss but also certain levels of physically challenged or disabled users however appropriate training and testing to be provided to all users to match individualities.

CHAPTER 5: HOW SAFE IS SAFE ENOUGH?

Consultation Question 3 (Paragraph 5.118)

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?

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

Yes

This decision must be backed by the highest authority following DVSA checks and approval including other driverless vehicle testing and approving agencies.

Consultation Question 4 (Paragraph 5.119)

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.

[Respondents chose from the following options: as safe as a competent and careful human driver; as safe as a human driver who does not cause a fault accident; overall, safer than the average human driver; none of the above.]

None of the above

It is however very tricky assessing the safety standards to which driverless vehicles should be measured in terms of safe driving protocols. Human error has been attributed to causing nearly 90% of crashes. Of this number, over 40% of this fatality is attributed to alcohol consumption, drugs, distraction and fatigue.

Therefore, humans should not be used as a yardstick as we are not trying to just reduce collision numbers with driverless cars, but eliminate it. A different protocol should be in place to avoid any form of safety hazards in and outside the vehicle.

Consultation Question 5 (Paragraph 5.120)

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

Policies ensuring that driverless vehicles (DV)s operate safely in all weather conditions, all traffic situations, at every hour of the day and most importantly, in shared spaces remains key. Policies regulating the weather conditions and time of the day DVs are permitted to operate such as in icy or snowy conditions or at night (since they use cameras) should be considered for further investigation to ascertain DV's efficiency in these conditions but in the meantime should be restricted to operate in only tested and safe conditions.

To accommodate DVs into public road and space, assistance must be given to DVs to aid their navigation:

Lane markings may need to be reflective for a clearer night vision for camera sensors. This will prove useful in poor or no signal reception locations as DVs then rely on built-in RADAR, GPS, video cameras, etc for navigation.

Dedicated lanes for DVs may be needed on some sections of the road especially on motorways at the earlier stage of implementing DVs on UK roads.

DVs have been equipped with sensors to detect obstructions, pedestrians, cyclists and animals and in most situations, it temporarily halts until the road is clear.

This 'halting cycle' might be experienced more in shared spaces. In a situation where a DV is crowded by other road users such as pedestrians and cyclist in shared spaces, DVs might not move. Therefore, there may be a need for a vehicle to human (V2H) interaction either through speech or sound. Policies must ensure that DVs are capable of V2 Vehicle, V2 Infrastructure and V2 Human communication in and out of the vehicle.

The appearance of DVs should be made distinct enough to prevent one from mistaking it for a Non-DV. For instance, Rule 103 of The Highway Code allows drivers to emphasise signals using their arm. DV may not be programmed to comprehend such gestures, eye contacts or attention-seeking actions. Policies to ensure that all road users can spot the difference between a DV and a non-DV at a distance not less than 30m for a 20mph road must be put in place.

Funds must be set aside for a nationwide review of road infrastructures and capacities even though DVs are anticipated to adapt to public roads using sensors.

Research funds will be required to examine the need and extent of road widening/segregation, reflective lane markings, smart signage needed during the transitional period of the driven and driverless vehicle. Huge investments will be needed to implement these infrastructural upgrades.

Consultation Question 6 (Paragraph 5.121)

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

DVSA may still be responsible for DV licensing and testing. It includes the mandatory MOT test of vehicle roadworthiness. Owners and operators of AVs must obtain this certificate and DVSA, on the other hand, must be properly equipped to test AVs for safety and environmental standards. The test could include monitoring performance while travelling some set distance to accurately determine for certainty any likely safety issues. Rules for testing AVs must be rigorously followed and testing equipment, foolproof to detect any form of cheat mechanism installed by manufacturers just like that discovered in 2015 used to beat

emission test. With AVs, safety cannot be compromised as it is fundamental to earning public trust.

It is also unclear how AVs will affect the job market in the transport sector. It could lead to a reduction in the use of other public transport modes such as conventional taxis, Uber and the likes and may replace them completely. This may leave drivers unemployed. It could on the other hand usher in other job opportunities in testing, monitoring, servicing and maintenance of AV fleets if those are not automated. It is recommended that care must be taken during the implementation stage to restrict its services to target deprived markets so as to integrate these areas with the wider society.

It is needless to say how AVs could integrate the society through 'first and last mile' services. Rural areas may no longer be excluded as Shared AVs could target these areas.

CHAPTER 7: ASSESSING SAFETY PRE-DEPLOYMENT

Consultation Question 7 (Paragraph 7.99)

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?

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

Yes

In addition, the checks should include the mandatory MOT test of vehicle roadworthiness. Manufacturers and operators of AVs must obtain this certificate and DVSA, on the other hand, must be properly equipped to test AVs for safety and environmental standards. The test could include monitoring performance while travelling some set distance to accurately determine for certainty any likely safety issues. Rules for testing AVs must be rigorously followed and testing equipment, foolproof to detect any form of cheat mechanism installed by manufacturers just like that discovered in 2015 used to beat emission test. With AVs, safety cannot be compromised as it is fundamental to earning public trust.

Consultation Question 8 (Paragraph 7.100)

We seek views on whether an approval authority that intends to use a scenario database as part of the testing procedure should consult road user groups on the range of scenarios to be included.

Surely in testing scenarios, consultation with road users must be put into consideration to inform testing scenarios and also be a part of the testing process. And their overall experience data collected through questionnaires and results available upon request.

CHAPTER 8: INITIAL APPROVALS AND CATEGORISATION – PROPOSALS

Consultation Question 9 (Paragraph 8.17)

We provisionally propose that:

- (1) unauthorised automated driving systems should be prohibited; and
- (2) this should be subject to an exemption procedure by which the Secretary of State may authorise unauthorised systems to be used in tests and trials.

Do you agree?

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

Yes

In the case of an exemption, test and trials to be done in a controlled environment in line with legal protocols.

Consultation Question 10 (Paragraph 8.25)

We provisionally propose that:

- (1) the Government should establish a domestic scheme to approve automated driving systems (ADSs) for use on roads in Great Britain (a “national ADS approval scheme”);
- (2) manufacturers should have a free choice to apply for approval under either the UNECE system of international type approvals or through the national scheme;
- (3) developers should be able to submit an ADS for national approval, even if they are not responsible for manufacturing the whole vehicle.

Do you agree?

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

Yes

And both national and international ADS approval scheme should consistent to ensure a uniform security and safety standards.

Consultation Question 11 (Paragraph 8.43)

We provisionally propose that:

- (1) an ADS approval scheme should be established through regulation under the Road Traffic Act 1988, without further legislative reform;
- (2) an ADS should be defined as a combination of software, hardware and sensors, which can be installed in a “type” of vehicle;

(3) when an ADS is approved, the approval should be accompanied by specifications for:

(a) the type of vehicle in which it can be installed; and

(b) how the ADS is installed within the vehicle;

(4) where an ADS is installed in a pre-registered vehicle, an example vehicle should be submitted to the regulator for approval of the installation.

Do you agree?

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

Yes

At all times, stats on ADS installed and approved vehicles must be known and their roadworthiness status. Where an ADS is installed, essential testing and trials must be done before approval.

Consultation Question 12 (Paragraph 8.44)

We invite observations on the appeal process in regulation 19 of the Road Vehicles (Approval) Regulations 2020, including:

(1) how it works in practice; and

(2) how well it is suited to the proposed national ADS approval scheme.

Regulation 19 seems quite robust but the rigorosity of the testing upon appeal must be put in place to contest the first ruling and results made available for consultation by independent third party.

Consultation Question 13 (Paragraph 8.71)

We provisionally propose that:

(1) once an ADS has received type approval at either international or domestic level, an Automated Driving System Entity (ADSE) would need to submit the vehicle to the UK safety regulator for categorisation as able to safely drive itself;

(2) the safety regulator should make a recommendation to the Secretary of State for how the vehicle should be classified;

(3) it should be open to the safety regulator to recommend that an ADS-enabled vehicle is classified in one of three ways: as not self-driving but driver assistance; as self-driving only with a user-in-charge; or as self-driving without a user-in-charge;

(4) the safety regulator should only recommend classification as self-driving (either with or without a user-in-charge) if it is satisfied that:

(a) an ADSE is registered as taking responsibility for the system;

(b) the ADSE was closely involved in assessing safety and creating the safety case; and

(c) the ADSE has sufficient funds accessible to the regulator to respond to improvement notices, to pay fines and to organise a recall.

Do you agree?

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

Yes

Consultation Question 14 (Paragraph 8.77)

We provisionally propose that a new legislative framework should provide regulation making powers to specify:

- (a) who should assess whether a vehicle is capable of self-driving;
- (b) the procedure for doing so; and
- (c) criteria for doing so.

Do you agree?

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

Yes

Consultation Question 15 (Paragraph 8.78)

We seek views on whether the new legislation should include provisions for appeals against a categorisation decision. If so, should these be similar to those in regulation 19 of the Road Vehicles (Approval) Regulations 2020?

Categorisation should be made as objective as possible upon testing and trials. In situations where an appeal is necessary, a format similar to Reg 19 should be followed.

Consultation Question 16 (Paragraph 8.83)

We seek views on whether the regulator that classifies vehicles as self-driving should have power to allow their deployment in limited numbers, so as to gather further data on their safety in real world conditions.

There should be separate entities to allow for verification, validation and testing of the first regulator classification decision. Both agencies should be independent of each other and able to make recommendations to the Secretary of State for final approval.

CHAPTER 10: ASSURING SAFETY IN USE

Consultation Question 17 (Paragraph 10.82)

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?

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

Yes

At the start of the implementation, automated vehicles and their operators must be reasonably regulated for safety compliance which should include vehicle interaction with the people in and out of the vehicle. Its interaction with the cloud and infrastructures is also crucial to the security protocols and therefore should fall under aspects for proper regulation.

Consultation Question 18 (Paragraph 10.83)

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?

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

Yes

In addition to No. 2, it is to be mandatory that navigation performance be automatically uploaded to the regulatory scheme in realtime under the GDPR provision. This should be seen as a cloud-backed black box to aid investigation after an incident. Updated maps and weather information should also be included in the routine updates. ADS should also be capable of conducting and following evacuation procedures.

Consultation Question 19 (Paragraph 10.84)

We welcome views on the following issues:

- (1) Should scheme regulators be empowered to approve software updates that apply only within the UK, without requiring the manufacturer to return to the original type approval authority?
- (2) Should the scheme should also deal with cybersecurity?

(3) Are other powers needed? (Note that data is discussed in Chapter 17.)

Yes, scheme regulators should approve every software updates prior to rollout.

Cybersecurity is mandatory for all parties involved in the implementation of every ADS including the regulator, ADSE and data storage centre entity.

Consultation Question 20 (Paragraph 10.100)

Should the authority administering the scheme to assure safety while automated vehicles are in use be kept separate from type approval authorities (as is already the case)? Alternatively, should both functions be combined in a single body?

[Respondents chose from the following options: single body; separate bodies; other.]

Single body

To maintain efficiency and reduce bureaucratic processes bodies should function as one.

CHAPTER 11: INVESTIGATING TRAFFIC INFRACTIONS AND COLLISIONS

Consultation Question 22 (Paragraph 11.24)

We provisionally propose that a statutory scheme to assure AVs in-use should:

- (1) investigate safety-related traffic infractions (such as exceeding the speed limit; running red lights; or careless or dangerous driving);
- (2) investigate other traffic infractions, including those subject to penalty charge notices;
- (3) if fault lies with the ADSE, apply a flexible range of regulatory sanctions.

Do you agree?

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

Other

Such investigation should be conducted by law enforcement agencies, independent road safety personnel, and insurance bodies which must present findings to the regulatory scheme and relevant agencies for actioning.

Consultation Question 23 (Paragraph 11.53)

We provisionally propose that the regulator which assures the safety of AVs in-use should have powers to impose the following sanctions on ADSEs:

- (1) informal and formal warnings;
- (2) fines;
- (3) redress orders;
- (4) compliance orders;
- (5) suspension of authorisation;

- (6) withdrawal of authorisation; and
- (7) recommendation of attendance at a restorative conference.

Do you agree?

[Respondents chose from the following options: informal and formal warnings; fines; redress orders; compliance orders; suspension of authorisation; withdrawal of authorisation; recommendation of attendance at a restorative conference.]

Redress orders, Compliance orders, Suspension of authorisation, Withdrawal of authorisation, Recommendation of attendance at a restorative conference
Regulatory schemes should be solely concerned with testing, inspection, approvals and withdrawal of licences or authorization to operate ADS. Other legal penalties must follow due judicial proceedings.

Consultation Question 24 (Paragraph 11.54)

We provisionally propose that the legislation should provide the regulator with discretion over:

- (1) the amount of any monetary penalty; and
- (2) the steps which should be taken to prevent re-occurrence of a breach.

Do you agree?

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

No

The amount should be placed based on the severity of the offence which should be decided in a court of competent jurisprudence. However, as the law permits may advise on matters regarding the cost of damages or non-compliance. And may also give advice on steps to avoid re-occurrence of a breach.

Consultation Question 25 (Paragraph 11.69)

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?

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

Other

This should lie within the powers of the Police. An investigative squad for such matters should be established together with independent road safety personnel.

They will report findings to the regulatory scheme.

Consultation Question 26 (Paragraph 11.82)

We provisionally propose that the UK Government should establish a forum for collaboration on the application of road rules to self-driving vehicles.

Do you agree?

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

Yes

CHAPTER 12: THE USER-IN-CHARGE

Consultation Question 28 (Paragraph 12.24)

We provisionally propose that that the user-in-charge:

(1) should be defined as an individual in position to operate the controls of a vehicle while an ADS is engaged and who is either in the vehicle or in direct sight of the vehicle; and

(2) is not a driver while the ADS is engaged, and would not be liable for any criminal offence or civil penalty (such as a parking ticket) which arises out of dynamic driving.

Do you agree?

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

Yes

Consultation Question 29 (Paragraph 12.37)

We provisionally propose that following the end of the transition demand period:

(1) the user-in-charge should re-acquire the legal obligations of a driver, whether or not they have taken control of the vehicle; and

(2) if, following a failure to respond to a transition demand, the vehicle stops in a manner which constitutes a criminal offence, the user-in-charge should be considered a driver and should therefore be liable for that offence.

Do you agree?

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

Other

Yes, but this should only apply when the user-in-charge is inside of the AV before the transition demand is requested.

Consultation Question 30 (Paragraph 12.45)

We seek views on whether a person with a provisional licence should be allowed to act as a user-in-charge, if accompanied by an approved driving instructor in a vehicle with dual controls.

As long as there is a fully licenced driver on board, the user-in-charge is the fully licensed driver and not the provisionally licenced person. A clear sign mounted on the vehicle indicating training in progress to other road users.

Consultation Question 31 (Paragraph 12.53)

We provisionally propose that legislation should create new offences of:

- (1) using an automated vehicle as an unfit or unqualified user-in-charge; and
- (2) causing or permitting the use of an automated vehicle by an unfit or unqualified user-in-charge.

Do you agree?

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

Yes

Consultation Question 32 (Paragraph 12.59)

We provisionally propose that persons carried without a user-in-charge should be guilty of a criminal offence.

Do you agree?

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

Other

In cases where AV is approved to operate without a user-in-charge, no such obligation should fall on passengers.

Consultation Question 33 (Paragraph 12.60)

We seek views on whether the new proposed offence of being carried without a user in-charge should only apply if the person:

- (1) knew that the vehicle did not have a user-in-charge; and
- (2) knew or ought to have known that a user-in-charge was required.

Where a user-in-charge required, no other unauthorised person should gain access to the AV. User-in-charge must approve boarding and alighting of every passenger and must not alight until everyone has alighted.

Consultation Question 34 (Paragraph 12.66)

We provisionally propose that a user-in-charge who takes over control of the vehicle:

- (1) should be considered a driver; but
- (2) should have a specific defence to a criminal offence if, given the actions of the ADS, a competent and careful driver could not have avoided the offence.

Do you agree? If not, we welcome views on alternative legal tests.

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

Yes

Consultation Question 35 (Paragraph 12.94)

We provisionally propose that the user-in-charge should be liable for criminal offences which do not arise from the dynamic driving task, including those related to:

- (1) insurance;
- (2) maintaining the vehicle in a roadworthy condition (including installing safety critical software updates);
- (3) parking;
- (4) duties following accidents to provide information and report accidents to the police; and
- (5) ensuring child passengers wear seatbelts.

Do you agree?

[Respondents chose from the following options: yes, the user-in-charge should be liable for all offences not arising from the dynamic driving task; the user-in-charge should be liable for some but not all of the offences listed; no, the user-in-charge should not be liable for any offences; other.]

Yes, the user-in-charge should be liable for all offences not arising from the dynamic driving task

Consultation Question 36 (Paragraph 12.95)

We provisionally propose that the legislation should include a regulation-making power to clarify those roadworthiness failings which are (and those which are not) the responsibility of the user-in-charge.

Do you agree?

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

Yes

CHAPTER 13: REMOTE OPERATION: NO USER-IN-CHARGE VEHICLES

Consultation Question 37 (Paragraph 13.67)

We provisionally propose that:

- (1) where an individual is exercising latitudinal and longitudinal control (steering and braking) over a vehicle remotely, that should not be regarded as a form of “self-driving”; and
- (2) where lateral and longitudinal control are exercised by an ADS, all other forms of remote operation should be regulated as “self-driving”.

Do you agree?

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

Yes

Consultation Question 40 (Paragraph 13.108)

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?

[Respondents chose from the following options: yes, a licensed operator should be subject to all the listed duties; a licensed operator should be subject to some but not all of the listed duties; no, a licensed operator should not be subject to any of the listed duties; other.]

Yes, a licensed operator should be subject to all the listed duties

Consultation Question 41 (Paragraph 13.109)

We provisionally propose that legislation should include a regulation-making power by which some or all of these duties could be transferred to the registered keeper or owner, if it was shown that it was appropriate to do so.

Do you agree?

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

Yes

CHAPTER 14: CRIMINAL OFFENCES BY ADSES AND THEIR SENIOR MANAGERS

Consultation Question 44 (Paragraph 14.107)

We provisionally propose that:

- (1) it should be a criminal offence for an ADSE to omit safety-relevant information or include misleading information when putting a vehicle forward for classification as self-driving or responding to information requests from the regulator;
- (2) the offence should apply to senior managers (where it was attributable to the manager's consent, connivance or neglect);
- (3) the offence should not apply to more junior employees;

(4) the offence should carry a higher sentence if it is associated with a death or serious injury;

(5) the offence should be prosecuted in England and Wales by either the regulator or the Crown Prosecution Service and in Scotland by the Procurator Fiscal.

Do you agree?

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

Yes

Agreed. ADSE and their top managers should face prosecution if found wanting for omitting or failing to provide important safety information

Consultation Question 45 (Paragraph 14.108)

We seek views on the following proposed offences.

Offence A: non-disclosure and misleading information in the safety case

When putting forward a vehicle for classification as self-driving, it would be a criminal offence for the ADSE to

(1) fail to provide information to the regulator; or

(2) provide information to the regulator that is false or misleading in a material particular

where that information is relevant to the evaluation of the safety of the ADS or the vehicle.

The ADSE would have a defence if it could show that it took reasonable precautions and exercised all due diligence to prevent the wrongdoing.

The penalty would be an unlimited fine.

Offence B: non-disclosure and misleading information in responding to requests

When a regulator requests specific information from an ADSE (whether before or after deployment), it would be a criminal offence for the ADSE to

(1) fail to provide information to the regulator; or

(2) provide information to the regulator that is false or misleading in a material

particular

where that information is relevant to the evaluation of the safety of the ADS or the

vehicle.

The ADSE would have a defence if it could show that it took reasonable precautions and exercised all due diligence to prevent the wrongdoing.

The penalty would be an unlimited fine.

Offence C: offences by senior management

Where offence A and/or offence B committed by a body corporate is proved—

(3) to have been committed with the consent or connivance of an officer of the body corporate; or

(4) to be attributable to neglect on the part of an officer of the body corporate, then that officer is guilty of the offence.

An officer includes any director, manager, secretary or other similar officer or any person who was purporting to act in any such capacity.

We see this as equivalent to offences under the Human Medicines Regulations 2012 and General Product Safety Regulations 2005, which carry a penalty of a fine and/or a maximum two years' imprisonment.

Offence D: aggravated offences in the event of death or serious injury following non-disclosure or provision of misleading information to the AV safety regulator

Where a corporation or person commits Offences A to C, that offence is aggravated where the misrepresentation or non-disclosure:

(5) related to an increased risk of a type of adverse incident; and

(6) an adverse incident of that type occurred; and

(7) the adverse incident caused a death or serious injury.

We see this as equivalent to the offence of causing death by dangerous driving, which carries a penalty of an unlimited fine and/or a maximum of 14 years' imprisonment.

We agree. Issues of misconduct attributed to the safety of an ADS should be treated seriously under the stipulation of the law and an accessory to murder whether officials be from the ADSE or from the regulatory authority aiding and abetting or gross negligence.

Consultation Question 46 (Paragraph 14.109)

We welcome views on whether an ADSE should be under a duty to present information in a clear and accessible form, in which safety-critical information is indexed and signposted.

ADSE should be required to supply information in stipulated formats provided by the regulator and provide all adjoining documentations as part of submissions made. Any further documents must be provided upon requests by the regulators.

CHAPTER 15: NEW WRONGFUL INTERFERENCE OFFENCES

Consultation Question 47 (Paragraph 15.10)

We provisionally propose that legislative amendment should clarify that the tampering offence in section 25 of the Road Traffic Act 1988 applies to anything that is physically part of a vehicle and any software installed within it.

Do you agree?

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

Yes

Most especially the software and access codes.

Consultation Question 48 (Paragraph 15.11)

We welcome views on whether the tampering offence should apply to external infrastructure required for the operation of the AV.

This should be treated under a separate offence as it has nothing to do with the ADS but to public property which should fall under a different section of the Road Traffic Act. Potentially Section 131 (2) to be expanded beyond traffic signs to ADS infrastructure on the highway.

Consultation Question 49 (Paragraph 15.53)

We provisionally propose that there should be an aggravated offence of wrongfully interfering with an AV, the road, or traffic equipment contrary to section 22A of the Road Traffic Act 1988, where the interference results in an AV causing death or serious injury, in:

(1) England and Wales; and

(2) Scotland.

Do you agree?

[Respondents chose from the following options: yes, in both England and Wales and Scotland; in neither jurisdiction.]

Yes, in both England and Wales and Scotland

CHAPTER 16: CIVIL LIABILITY

Consultation Question 52 (Paragraph 16.24)

We provisionally propose that the way the Automated and Electric Vehicles Act 2018 deals with contributory negligence and causation is:

(1) adequate at this stage; and

(2) should be reviewed by the UK Government in the light of practical experience.

Do you agree?

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

Yes

Consultation Question 53 (Paragraph 16.32)

We provisionally propose that measures should be put in place to compensate the victims of accidents caused by uninsured AVs.

Do you agree?

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

Yes

We agreed but an exception to persons found guilty of wrongfully interfering with the operations of an ADS.

CHAPTER 17: ACCESS TO DATA

Consultation Question 55 (Paragraph 17.65)

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?

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

Yes

With the necessary data protection and GDPR laws employed.

Consultation Question 56 (Paragraph 17.71)

We provisionally propose that legislation should impose a duty on those controlling AV data to disclose data to insurers, where the data is necessary to decide claims fairly and accurately.

Do you agree?

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

Yes

With the necessary data protection and GDPR laws employed.

Consultation Question 57 (Paragraph 17.81)

We provisionally propose that:

(1) initially, DSSAD data from self-driving vehicles should be stored for three years; and

(2) the issue should be reviewed in the light of experience.

Do you agree?

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

Other

Three years seem like a very short duration given the duration of some investigation and judicial processes. An unlimited time frame should be adopted for the foreseeable until there is enough evidence to prove a suitable timeframe for data storage.

Consultation Question 58 (Paragraph 17.95)

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?

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

Yes