

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

Please note that this consultation response has been reproduced from information entered on the Citizen Space online portal.

Any personal email addresses and phone numbers have been excluded from this document. Unanswered questions have been deleted from this document.

What is your name?

Tom Jones

What is the name of your organisation?

Thompsons Solicitors LLP

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

Response on behalf of organisation

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

Yes although we would suggest that, given the lack of definition of what constitutes 'practical experience' and the fast-moving development of the technology in this area, those reviews should be periodic (at least annual) and overseen by independent legal advisers.

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

Yes but this should not be limited to uninsured vehicles. Measures should also be put in place for the MIB to compensate the victims of accidents:

- Caused by users who have failed to update their AV technology and have therefore potentially invalidated their insurance
- Which have occurred on private land, in accordance with *Motor Insurer's Bureau v Lewis* [2019] EWCA Civ 909

Consultation Question 54 (Paragraph 16.47)

We provisionally propose that:

(1) product liability law should be reviewed to take account of the challenges of emerging technologies;

(2) any review should cover product liability as a whole, rather than be confined to automated vehicles;

it should not, therefore, form part of this project on automated vehicles.

Do you agree?

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

Other

1) – Yes

2) – No. A review of 'product liability as a whole' is dependent on a host of non-AV related factors and, if history is to be used as a guide, a review is not likely to take place in the immediate future and, when it does, it is likely to take considerable time. The consequential risk is that there will be a considerable time lag between AVs (or, in future, updated versions of AVs) being in use and the law on product liability being adequately developed. In our view, given that AV technology is fast-moving and comes with considerable risk to human life, it should not be ranked for review with products which represent limited danger and are subject to limited technological developments. Accordingly, in the absence of more information on the time period proposed for review of 'product liability as a whole', AVs should be separated from other product liability reviews and the review take place whenever the industry makes a step-change in technology or usage extends.