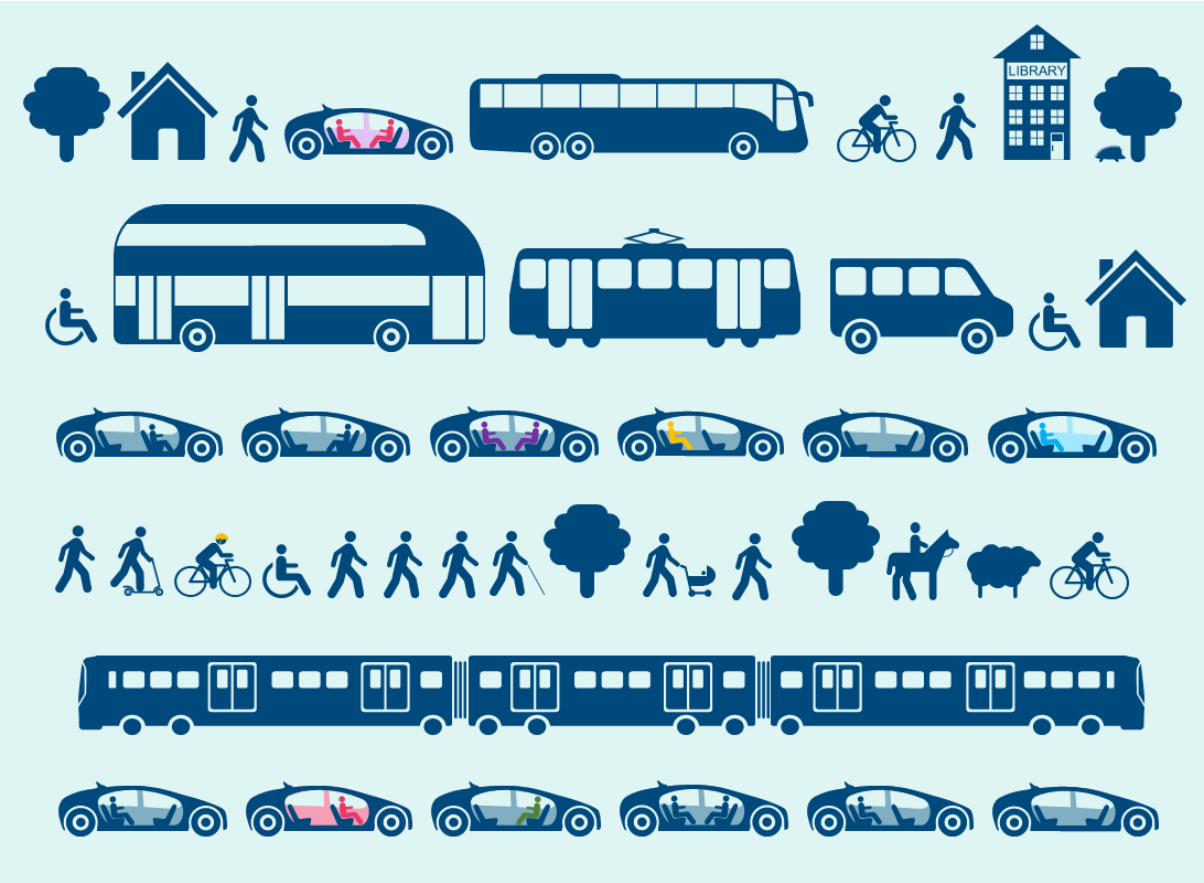
Law Commission
Reforming the law

Scottish Law Commission
promoting law reform

Automated Vehicles:

Summary of Consultation Paper 2 on Passenger Services and Public Transport



Summary of LCCP No 245 / SLCDP No 169
16 October 2019

RESPONDING TO THIS PAPER

This is a summary of the full consultation paper, available on our websites at: https://www.lawcom.gov.uk/project/automated-vehicles/ and https://www.scotlawcom.gov.uk/publications.

We are committed to providing accessible publications. If you require the summary or consultation paper in a different format, please call 020 3334 0200 or email automatedvehicles@lawcommission.gov.uk.

We seek responses by 16 January 2020.

Comments may be sent:

Using an online form at:

https://consult.justice.gov.uk/law-commission/automated-vehicles-harps

We have also produced a questionnaire in word format available on request. We are happy to accept comments in other formats. Please send your response:

By email to automatedvehicles@lawcommission.gov.uk

OR

By post to Automated Vehicles Team, Law Commission, 1st Floor, Tower, 52 Queen Anne's Gate, London, SW1H 9AG.

If you send your comments by post, it would be helpful if, whenever possible, you could also send them by email.

Responses may be made public

We may publish or disclose information you provide in response to our papers. Additionally, we may be required to disclose the information under 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.

The Law Commissions will process your personal data in accordance with the General Data Protection Regulation.

Cover: Adapted from Department for Transport icon resources.

Contents

Chapter 1: Introduction

1.1 The Law Commission of England and Wales and the Scottish Law Commission are carrying out a three-year review to prepare law and regulation for automated vehicles. This is a summary of the second consultation paper in that review.[1]

1.2 Our first consultation paper (Consultation Paper 1) considered safety assurance together with civil and criminal liability. This paper looks at the use of self-driving vehicles to provide journeys to users who are purely passengers. In the language of Consultation Paper 1, we consider vehicles that can be used without a user-in-charge. In other words, there is no person in the vehicle with legal responsibility for its safety.

1.3 We seek responses by **16 January 2020** from all interested parties. Details of how to respond are set out on the inside cover.

PASSENGER-ONLY TRANSPORT: WHAT IS COVERED?

"HARPS": a new form of service

1.4 The paper discusses Highly Automated Road Passenger Services, or "HARPS". We have coined the term HARPS to encapsulate the idea of a new service. It refers to a service which uses highly automated vehicles to supply road journeys to passengers without a human driver or user-in-charge. The vehicle would be able to travel empty or with only passengers on board.

1.5 HARPS would be sufficiently different from current services that we do not think they would be shoehorned into the regulatory structures which currently apply to taxis, private hire or public service vehicles. In Chapters 3 and 4 we discuss a new, separate regulatory regime.

Privately-owned passenger-only vehicles

1.6 Some automated vehicles may be personal vehicles, owned by individuals who have exclusive access to them. In Chapter 5 we consider who would be responsible for insuring, maintaining and supervising such vehicles.

Achieving wider transport goals

1.7 The regulatory regime should promote a service that benefits society more generally. Therefore, in Chapter 6 we consider access for disabled and older people. In Chapter 7 we discuss regulatory tools to control congestion and empty cruising. Finally, in Chapter 8 we look at how to integrate HARPS with mass transit.

---

[1] For the full paper, see Automated vehicles: Passenger services and public transport (2019) Law Com Consultation Paper No 240; Scot Law Com Discussion Paper No 169. Available at https://www.lawcom.gov.uk/project/automated-vehicles/. Below, we refer to this paper as Consultation Paper 2.

A focus on passenger transport rather than freight

1.8 Under our terms of reference, we have been asked to focus on passenger transport, as opposed to goods deliveries. However, we welcome observations on our proposals from those involved in the freight industry, if only to highlight where passenger provisions may or may not be appropriate. We will pass these observations to the Department for Transport.

"PASSENGER-ONLY VEHICLES" WITHIN A CLASSIFICATION OF AUTOMATION

1.9 There is considerable controversy over how to classify automated driving. In Consultation Paper 1, we drew on the taxonomy developed by the Society of Automotive Engineers International (SAE). The "SAE Levels" aim to provide a common language to describe the relationship between automated driving systems and human users. However, they are not legal definitions and are not determinative of when a vehicle can be regarded as "self-driving".

1.10 Recently, Thatcham and the Association of British Insurers have done further work on defining safe automation. This adopts a threefold classification of driving automation: assisted, automated and autonomous driving.[2] In this project, we are also working on the basis of a three-fold legal classification: assisted driving (where the driver retains all the responsibilities of the driver); highly automated driving with a user-in-charge; and highly automated driving which may travel empty or with occupants who are merely passengers (passenger-only).

Assisted driving: the driver remains responsible throughout

1.11 Vehicles with driver assistance features (SAE Level 2) are already on the market. Often these features carry out both steering and acceleration/deceleration. However, the driver is responsible for monitoring the driving environment and continues to be subject to all the existing obligations of a driver.

1.12 Conditional automation (SAE Level 3) requires a human "fallback-ready user", who must be receptive to the system's request to intervene, possibly at short notice. In response to Consultation Paper 1, many stakeholders argued that conditional automation should be treated as a form of assisted driving, with the driver retaining full responsibility for the vehicle. We intend to return to the boundary between assisted driving and high automation in our next consultation paper.

High automation *with* a user-in-charge

1.13 At "high automation" (SAE Level 4), an automated driving system undertakes all the driving tasks for at least part of a journey. It does not rely on a human to intervene to guarantee road safety if a problem occurs. Instead the system will put the vehicle into a "minimal risk condition", such as bringing it to a safe stop.

1.14 However, a highly automated vehicle is not able to operate everywhere: it is confined within an "operational design domain". It may need to hand over to a human user present in the vehicle, either when it reaches the limits of its domain or when it

[2] Thatcham Research and the ABI, *Defining Safe Automation* (September 2019).

encounters a problem and comes to a stop. We labelled this human "the user-in-charge".

1.15 A user-in-charge would not be a driver while the automated system is correctly engaged. However, a user-in-charge would need to be qualified and fit to drive. They would also be responsible for matters which go beyond the driving task, such as insuring the vehicle, maintaining roadworthiness and reporting accidents. We proposed that highly automated vehicles should require a user-in-charge unless they are specifically authorised to function without one.

1.16 This paper is not concerned with vehicles which require a user-in-charge. Passenger vehicles with a professional user-in-charge at the controls would continue to be regulated under current legislation, as either taxis, private hire or public services vehicles.

High automation *without* a user-in-charge ("passenger-only")

1.17 Where a vehicle is authorised to operate without a user-in-charge the paradigm changes. The vehicle may travel empty. Alternatively, the only people in the vehicle may be mere passengers with no legal responsibility for the vehicle or for what it does. We refer to these vehicles as passenger-only. They are the focus of this paper.

1.18 This does not mean that services running empty or carrying only passengers would have no human supervision. In response to Consultation Paper 1, many consultees discussed plans for remote supervision through remote control centres. Consultees asked for greater clarity about whether the concept of a user-in-charge would include a remote supervisor.

1.19 In the light of the responses we have reached the conclusion that the term "user-in-charge" should be confined to a person in the vehicle or in direct line of sight of the vehicle (as with automated parking). That is not to say that remote supervision is undesirable – simply that it is a different form of supervision and raises different issues. We discuss some of the potential challenges of remote supervision in Chapter 4.

BUILDING ON THE SAFETY ASSURANCE SCHEME IN CONSULTATION PAPER 1

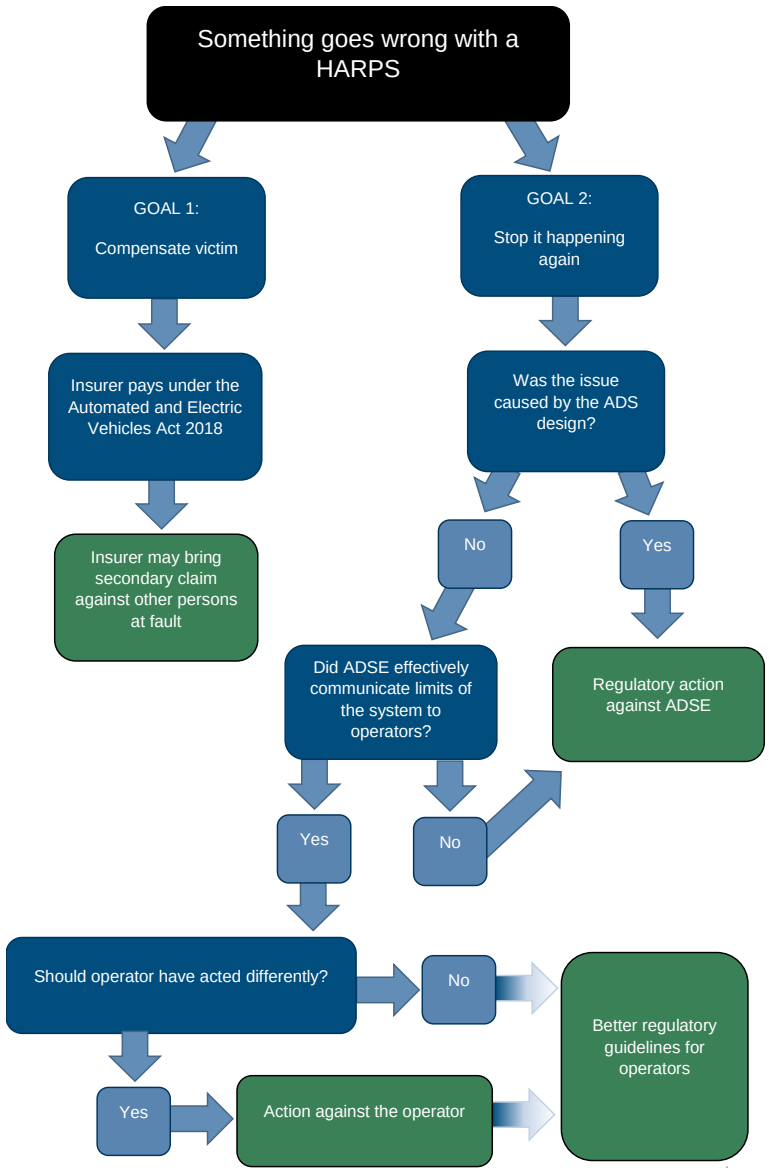
1.20 In Consultation Paper 1 we provisionally proposed that the UK Government should establish a safety assurance scheme for automated vehicles to complement the current system of international type-approval.

1.21 A key aspect of this scheme is that every automated driving system (ADS) put forward for authorisation would need to be backed by an entity (usually the vehicle manufacturer or software developer, or a joint venture between the two). Borrowing on work by the Australian National Transport Commission, we called this the "Automated Driving System Entity" or ADSE. We proposed that if problems occurred after the ADS had been placed on the roads, the ADSE would be subject to a range of regulatory sanctions including improvement notices, fines or (in serious cases) withdrawal of approval. These sanctions would apply both to user-in-charge vehicles and to passenger-only vehicles.

1.22 These proposals received widespread agreement. The Centre for Connected and Autonomous Vehicles (CCAV) have now set out a workstream to take them forward.[3]

1.23 The proposals we made in Consultation Paper 1 are intended to ensure that vehicles are safe-by-design. In Consultation Paper 2 we look at how vehicles can be safe-by-operation. We focus on the role of a HARPS operator to ensure that fleets are managed and supervised appropriately in the absence of a user-in-charge. The ADSE and HARPS operator roles may be fulfilled by the same organisation, as where the manufacturer also provides mobility services. Alternatively, they may be different organisations, as where the manufacturer sells automated vehicles to a mobility operator.

1.24 As the following diagram illustrates, if something goes wrong, regulators should be able to work with both the ADSE and the HARPS operator to stop it from happening again.



[3] See https://www.gov.uk/government/news/new-system-to-ensure-safety-of-self-driving-vehicles-ahead-of-their-sale.

QUESTIONS AND CROSS-REFERENCES TO THE FULL CONSULTATION PAPER

1.25 This summary provides a brief policy background to each of our tentative proposals and questions. For tentative proposals we ask if you agree; for more open questions we simply seek your views. The discussion refers to the question number in brackets, while the questions themselves are listed at the end of this summary (and again in Chapter 9 of the full consultation paper).

1.26 For this summary, we have tried to keep citations to a minimum. Consultees who wish to know more are referred to the full consultation paper.

NEXT STEPS

1.27 In 2020 we intend to publish a third consultation paper which will draw on the responses to both previous papers to formulate more detailed proposals on the way forward. This will lead to a final report with recommendations in 2021.

ACKNOWLEDGEMENTS AND THANKS

1.28 We have held more than 70 meetings with individuals and organisations during the writing of this paper, and we are extremely grateful to them for giving us their time and expertise. Appendix 1 of the full consultation paper lists the stakeholders we have met and the conferences we have attended.

Chapter 2: Achieving wider transport goals

2.1 We start with the broad question: what should a regulatory system for HARPS be designed to achieve?

2.2 There is considerable agreement about what a good transport system would look like. The Government's *Future of Mobility: Urban Strategy* states that innovative services must be safe, accessible and lead the transition to zero emissions. Innovation should contribute to an integrated transport system which reduces congestion, shares data and encourages active travel (such as walking and cycling).

2.3 We also consider a variety of local transport plans. All plans stress the need to combat climate change, improve air quality, and encourage social inclusion. They emphasise active travel and "healthy streets" to encourage walking. Transport authorities also have duties to promote traffic flow: the plans aim to reduce congestion and provide a resilient network, able to withstand unexpected events and weather conditions.

2.4 To identify the opportunities and risks posed by HARPS, we set out two competing visions. The positive vision shows how HARPS could help achieve these objectives. The negative vision looks at the risk that they could make things worse. Neither vision attempts to predict the future. Instead our aim is to design a regulatory system which maximises the benefits HARPS can bring while guarding against the risks.

THE POSITIVE VISION: POTENTIAL BENEFITS

Reducing dependency on car ownership

2.5 At present, the UK is hugely dependent on cars. Once people own a car, they tend to use it, even when alternatives are available. This is partly a matter of habit and convenience but is also attributable to economic incentives. Many of the costs of car ownership are "sunk costs" (such as purchase price, insurance and vehicle excise duty). The marginal costs (such as fuel) are relatively low. In deciding how to make a particular journey, people will use their car if these low marginal costs are less than the benefits that car use will bring, compared with alternatives such as public transport.

2.6 As a result, if people are forced to own cars because there is no realistic alternative for some of the trips they make, they will use their cars more generally. This can impose significant costs on society as a whole, in terms of congestion, poor air quality and climate change.

2.7 At present, taxis and private hire (minicabs) offer one alternative to private cars. However, they can be costly, with 40% to 50% of operating costs spent on drivers. Car clubs do not require a paid driver but vehicles may be some distance away or may not be available where they are needed. HARPS have the potential to transform these services. Customers could summon a vehicle to their door, easily and cheaply, making shared services almost as convenient as private ownership.

2.8 Once freed from the necessity of car ownership (and its large sunk costs), people may think differently about transport options, making greater use of public transport and active travel.

2.9 With less dependency on car ownership, HARPS offer many potential benefits:

(1) **Reduced congestion:** HARPS will reduce congestion if rides are shared or if they encourage people to use mass transit. HARPS have the potential to encourage "multi-modal trips", where users change from one form of transport to another, better-suited to that leg of the journey. This can become a reality with easily available travel information, seamless ticketing and through fares (an approach often referred to as "Mobility as a Service").

(2) **Reduced car parking**: The average car in the UK is parked 96% of the time. HARPS vehicles could be used much more intensively, helping reclaim space currently ceded to parking. That space could be used in a wide variety of ways, including more cycling lanes and healthier streets.

(3) **Affordable and flexible bus services:** Employment costs of drivers currently comprise around 40% of the total running costs of buses. With reduced costs, public subsidies could be used to provide more services. Also, without the fixed costs of a driver, it would become more economic to run smaller bus services at more frequent intervals. Technology makes it possible to change the route in response to the needs of passengers, combining people who are travelling in similar directions and dropping them off near their door.

(4) **Accessibility:** People with disabilities currently travel less and are more dependent on taxis and private hire than the rest of the population. The cost of these trips is a particular burden for those on low incomes. More affordable, accessible services would enable disabled people to travel more.

(5) **Safety:** HARPS could substantially reduce the number of people injured or killed on British roads. Diverse sensors, data sharing, safer driving behaviour and faster-than-human reaction times could avoid accidents currently caused by human error.

(6) **Other environmental benefits**: Automated vehicles would be able to drive in more efficient and environmentally friendly ways and can lead the progression towards zero emission vehicles. Their safer driving style may also make people feel more comfortable to walk and cycle in urban environments.

(7) **Reclaimed time**: The average driver spends an estimated 236 hours behind the wheel each year. HARPS users could reclaim this time and use it in more productive ways.

THE NEGATIVE VIEW: POTENTIAL RISKS

2.10 On the other hand, any major change carries risks. The consultation paper identifies several ways in which HARPS could undermine wider transport goals, if they are not properly regulated.

(1) **Safety concerns**: Automated vehicles have the potential to be safer than human drivers. However, public trust could be undermined by even a few high-profile collisions. It is crucial that operators are regulated appropriately to ensure safety.

(2) **Inhibiting traffic flow**: HARPS vehicles might freeze when confronted with unexpected weather conditions or unknown obstacles (including, possibly, leaves or plastic bags). The regulatory system should ensure that operators respond quickly by removing stopped vehicles. Operators will also need to learn from these incidents to prevent them from happening again.

(3) **Reduced accessibility**: Many older or disabled persons who currently rely on taxis or private hire vehicles also rely on their drivers to assist them by (for example) helping them into the vehicle or accompanying them to and from their door. Ways will need to be found to provide or replicate this human presence.

(4) **Congestion**: One concern is that large numbers of new vehicles will be placed onto urban roads before private car use has reduced, causing further congestion. This will be compounded if vehicles spend their time driving around empty or driving long distances to park. Regulatory tools may be needed to control congestion and "empty cruising" – that is, circling around empty for no purpose.

(5) **Rural areas:** Such areas could benefit enormously from HARPS, but rural roads present many challenges (such as fewer road markings; the negotiations required for single lane roads; and lack of connectivity). Increased investment in connectivity may be necessary before the benefits of HARPS can extend outside urban areas.

(6) **Employment**: There are concerns that HARPS could have a negative impact on jobs. Although automated vehicles could lead to economic growth and increase employment overall, there is a need for fair transition and retraining for those most affected. This issue is outside our terms of reference. However, we note Government commitments to retraining and urge Government to give this issue close attention.

2.11 The potential benefits and risks have informed our approach to regulation and the proposals we make in subsequent chapters.

Chapter 3: Operator licensing – a single national system

3.1 Our first priority is that HARPS should be operated safely. The law must therefore identify the person or organisation responsible for updating, insuring and maintaining the vehicles and for guarding against cyber-attacks. There is also a need to keep traffic flowing. HARPS will need to be supervised so that they do not stop in inappropriate places and to make sure that broken-down vehicles are moved. There is therefore a need for a robust system of operator licensing.

3.2 The current regulation of passenger vehicles is highly fragmented, with separate systems for taxis, private hire services[4] and public service vehicles (PSVs). At one time these categories reflected genuine market differences between a taxi, mini-cab and bus. However, these distinctions are already blurring in the light of technological change and new business models. They may break down altogether in an automated environment.

3.3 As we discuss in Chapter 3, the current regulatory divisions are based on size, fare structure and how vehicles are booked.

(1) The difference between a taxi and private hire service depends on whether it can "ply for hire" or must be pre-booked. This distinction is increasingly eroded by mobile app technology.

(2) The difference between private hire and a PSV depends on size and fare structure. A vehicle is a PSV if is able to carry more than 8 passengers or (if it carries fewer passengers) it charges separate fares. Yet, as private hire vehicles become larger and buses become smaller, there are increasing numbers of vehicles able to carry around 6 to 15 passengers. The need to encourage ride sharing is also leading to a greater user of separate fares. This is coupled with an innovative approach to fare structures more generally, including subscription services.

3.4 We do not think that these regulatory divisions between taxis, private hire and PSVs are suitable for services that operate without human drivers, for three reasons:

(1) The current regulatory divisions can be arbitrary. Attempting to impose them in the future could warp decisions and lead to "regulatory shopping" (allowing operators to choose the system with less exacting standards).

(2) Responsibility for taxi and private hire licensing lies with over 300 separate local authorities across Great Britain. Many are small and lack resources. There are also serious problems in enforcing standards across local authority boundaries.

[4] These are known as "private hire vehicles" in England and Wales and "private hire cars" in Scotland.

(3) The existing systems place considerable emphasis on the role of the driver. This is particularly true for taxi regulation in England and Wales, where only the driver and the vehicle are licensed. Unlike in Scotland, there is no requirement for operators to be licensed.

3.5 Instead, we provisionally propose that HARPS should be subject to a new, single, national system of operator licensing. We ask consultees if they agree (Consultation Question 1).[5] We also ask whether there should be a national scheme of basic safety standards for operating a HARPS (Consultation Question 2).[6]

[5] Consultation Paper 2, para 3.82.

[6] Consultation Paper 2, para 3.86.

Chapter 4: Operator licensing – scope and content

4.1 This chapter explores a new licensing scheme for those who operate Highly Automated Road Passenger Services (HARPS). As HARPS may vary considerably, any legislation needs to combine outcome-based principles with flexible guidance over how those outcomes are met.

SCOPE OF THE NEW SCHEME

4.2 We provisionally propose to define a HARPS operator as any business which carries passengers for hire or reward using highly automated vehicles on a road without the services of a human driver or user-in-charge. We discuss each aspect of this definition:

(1) **"Business which carries passengers for hire or reward":** This is the existing test for PSV operators. It has been applied widely. The key question is: does the service for which payment is made go beyond the bounds of mere social kindness?

(2) **"Highly automated vehicles":** May be confined to an operational design domain and may need some supervision from a remote-control centre. However, they would not require a human with legal responsibility for safety to be in the vehicle.

(3) **"Road":** We provisionally follow the current definition in the Road Traffic Act 1988. In essence, a road has a prepared surface and identifiable edges and is open to members of the public (either as pedestrians or drivers). It need not be maintained at public expense.

(4) **"Without a human driver or user-in-charge":** The scheme would cover vehicles which can travel empty or with mere passengers. These vehicles would be authorised to operate without a "user-in-charge" in the vehicle or in line of sight of the vehicle.[7]

4.3 We ask whether consultees agree with this definition (Consultation Question 3).[8] We ask whether this test of "carrying passengers for hire or reward" is sufficiently clear (Consultation Question 4).[9]

---

7 For a discussion of a user-in-charge, see Consultation Paper 1, para 3.61, available at: https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2018/11/6.5066_LC_AV-Consultation-Paper-5-November_061118_WEB-1.pdf.

8 Consultation Paper 2, para 4.33.

9 Consultation Paper 2, para 4.34.

EXEMPTIONS

4.4 Both PSV and private hire legislation contain many exemptions. For example, there are specific exemptions from PSV licensing for community groups and non-profit making schools which do not transport the public.

4.5 Our starting point is that the proposed scheme should cover all operators, unless a strong case can be made for an exemption in the light of practical experience. However, we seek views on whether there should be exceptions for community or other services which would otherwise be within the scope of HARPS operator licenses (Consultation Question 5).[10]

4.6 We also ask about trials. We seek views on whether the Secretary of State should have powers to exempt specified trials from the need for a HARPS operator licence (or to modify licence provisions for such trials) (Consultation Question 6).[11]

OPERATOR REQUIREMENTS

4.7 Under current legislation, applicants for standard PSV operator licences must demonstrate that they:

(1) are of good repute;

(2) have appropriate financial standing;

(3) have an effective and stable establishment in Great Britain; and

(4) are professionally competent/have a suitable transport manager to oversee operations.

4.8 We seek views on whether similar requirements should apply to HARPS operators (Consultation Question 7).[12]

4.9 At present, a PSV transport manager must hold a certificate of professional competence, which usually involves passing a written examination. Yet in the early days, there will be no examinations on how to run HARPS. In the absence of examinations or experience, we seek views on how a transport manager should demonstrate professional competence in running an automated service (Consultation Question 8).[13]

---

10 Consultation Paper 2, para 4.46.

11 Consultation Paper 2, para 4.54.

12 Consultation Paper 2, para 4.72.

13 Consultation Paper 2, para 4.73.

ADEQUATE ARRANGEMENTS FOR MAINTENANCE

4.10 HARPS will pose new maintenance challenges. While improved onboard diagnostic systems may reduce the need for some routine safety inspections, operators will need to ensure that maps and software are updated and maintain cyber-security.

4.11 We propose that HARPS operators should be under a legal obligation to ensure roadworthiness. Using the statutory language applied to PSVs, they should also demonstrate "adequate facilities or arrangements" for maintaining vehicles "in a fit and serviceable condition". This would be subject to statutory guidance, so as to learn from experience and share best practice within the industry.

4.12 We ask consultees if they agree with this proposal (Consultation Question 9 and 13).[14] We also ask if legislation should be amended to clarify that HARPS operators are "users" for the purposes of insurance and roadworthiness offences (Consultation Question 10).[15]

REMOTE SUPERVISION

4.13 In response to Consultation Paper 1, developers told us about their plans to supervise vehicles remotely. Several explained that remote supervisors would not necessarily monitor or steer vehicles directly. Instead, they could, for example respond to a request from the vehicle and decide on a course of action which the vehicle would then carry out. This would require connectivity and suitably trained staff. In other similar areas (such as air traffic control and railway control centres) regulators have issued detailed guidance on working hours.

4.14 We seek views on whether HARPS operators should be under a legal duty to ensure that vehicles are adequately supervised (Consultation Question 11).[16] At its most basic, this means that operators should know where their vehicles are and respond appropriately to collisions or break-downs. Following failures, supervisors also will need to reassure passengers and other road users. As experience of trials becomes available, there may also need to be guidance on issues such as working hours and how many vehicles can be supervised at once.

REPORTING REQUIREMENTS

4.15 We consider it essential that HARPS operators report untoward events. We ask if operators should also report miles *without* untoward events, and other key contextual information (such as the type of road, weather conditions, and other risk factors) to put any collision statistics in context (Consultation Question 12).[17] We hope that reporting standards can be developed from the trials currently under way.

---

14 Consultation Paper 2, paras 4.89 and 4.128.

15 Consultation Paper 2, para 4.90.

16 Consultation Paper 2, para 4.124.

17 Consultation Paper 2, para 4.125.

SAFEGUARDING

4.16 We ask if operators should be under a duty to take reasonable steps to safeguard passengers from assault, abuse or harassment (Consultation Question 11).[18] This may include conducting criminal record checks on all staff who are alone with passengers in the vehicle, even if they do not drive. Operators may also need to monitor the conduct of passengers in shared vehicles.

PRICE INFORMATION

4.17 We do not propose to regulate fares for HARPS. Instead, we think that consumers should have the opportunity to compare prices before booking. Operators should provide price information, either online, or before confirming a booking, or in some other accessible way. We seek views on whether the operator licensing agency should have powers to ensure that this is done (Consultation Question 14).[19]

WHO SHOULD ADMINISTER THE SYSTEM?

4.18 Although this is an issue for Government rather than us, we welcome observations on which agency should administer the system of HARPS operator licensing (Consultation Question 15).[20] We will pass the views we receive to the Department for Transport.

FREIGHT TRANSPORT

4.19 Under our terms of reference, we have been asked to focus on passenger transport. However, we welcome observations on how far our proposals may be relevant to transport of freight (Consultation Question 16).[21]

---

18 Consultation Paper 2, para 4.124.

19 Consultation Paper 2, para 4.133.

20 Consultation Paper 2, para 4.138.

21 Consultation Paper 2, para 4.140.

Chapter 5: Privately-owned passenger-only vehicles

5.1 Many people are looking forward to having their own self-driving car, available for their exclusive use whenever they need it. The opportunity to own a fully self-driving car can be particularly valuable to those currently unable to drive for reasons of disability and who have, hitherto, lacked the access to car ownership enjoyed by others.

SETTING A BOUNDARY BETWEEN HARPS AND PRIVATE LEASING

5.2 This idea of exclusive use does not necessarily require the consumer to invest capital in buying the vehicle outright – a move that carries financial risks. Initially, we anticipate that consumers may enter into a leasing arrangement.

5.3 The first issue is how to distinguish between rental agreements that are effectively passenger services (and must be licensed as HARPS) and lease agreements which are more akin to private ownership. We provisionally propose that those making "passenger-only" vehicles available to the public should be licensed as HARPS operators unless the lessee has exclusive use of the vehicle for an initial period of at least six months (Consultation Question 17).[22]

ALLOCATING RESPONSIBILITIES

5.4 At present, drivers assume many responsibilities which go beyond the driving task. For example, one may only drive a vehicle if it is insured and roadworthy. In Consultation Paper 1, we proposed that similar duties should fall on the user-in-charge. However, in the absence of a user-in-charge, there is a potential legal gap.

5.5 In Chapter 5 we consider who should be legally responsible for insuring a privately-owned passenger-only vehicle; keeping it roadworthy; installing safety-critical updates; reporting accidents; and removing the vehicle if it causes an obstruction or is left in a prohibited place. We provisionally propose that these duties should be placed on the person who keeps the vehicle, with a statutory presumption that this is the registered keeper (Consultation Questions 18 and 19).[23]

5.6 Where a passenger-only vehicle is leased to a private individual, the leasing company may well be the registered keeper and therefore responsible for these matters. We think there are advantages to making the leasing company responsible for these duties unless they inform the lessee that responsibility has been transferred. We invite views on whether a lessor should only be able to transfer these duties to the lessee if the duties are clearly explained and the lessee signs a statement accepting responsibility (Consultation Question 20).[24]

---

22 Consultation Paper 2, para 5.12.

23 Consultation Paper 2, paras 5.40 and 5.41.

24 Consultation Paper 2, para 5.42.

WILL CONSUMERS REQUIRE TECHNICAL HELP?

5.7 It is not yet clear whether the technology will be sufficiently safe for individuals to be able to organise supervision, updates to software and security for themselves. This may be an onerous task which requires specialist intervention.

5.8 One solution would be to require a consumer to "buy" supervision and maintenance services from a licensed provider. The licensed provider could either be a HARPS operator or be licensed to equivalent standards. We seek views on whether there should be a regulation-making power to this effect (Consultation Question 21).[25]

PEER-TO-PEER LENDING

5.9 Another possibility is that a consumer who owns a passenger-only vehicle could place it on a website for "peer-to-peer" lending. This would allow other people to use the vehicle for individual journeys or a series of journeys.

5.10 We think that, if charged for, these peer-to-peer services should and would fall within the definition of a HARPS. Those running them would therefore need a HARPS operator licence. However, we welcome views on this issue (Consultation Question 22).[26]

PROTECTING CONSUMERS FROM UNEXPECTEDLY HIGH ONGOING COSTS

5.11 Consumers who pay a significant purchase price for a passenger-only vehicle may then be faced with considerable ongoing costs for updates, repairs and servicing. At least initially, these costs may be difficult to anticipate. Furthermore, they may not be subject to competitive pressures.

5.12 Currently, an EU Regulation requires vehicle manufacturers to provide information to independent parts manufactures and repairers, to create a competitive "after-market" in repairs and servicing.[27] However, this approach may be difficult to maintain in the light of concerns about cyber-security and intellectual property. As a result, consumers may need to return to the original manufacturer for parts and serving. Problems may also arise if the manufacturer becomes insolvent and the software ceases to be updated. Consumers need clear information about ongoing costs before making a decision to buy. We seek views on whether our proposed safety assurance agency should be under a duty to monitor this issue (Consultation Question 23).[28]

---

25 Consultation Paper 2, para 5.47.

26 Consultation Paper 2, para 5.53.

27 Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on access to vehicle repair and maintenance information OJ L 171 of 29.6.2007.

28 Consultation Paper 2, para 5.60.

Chapter 6: Accessibility

WHAT WE WANT TO ACHIEVE

6.1 A transport system that works better for disabled and older people works better for all. The introduction of Highly Automated Road Passenger Services (HARPS) could help give disabled and older people the same access to transport as everyone else. It is critical that as new HARPS are developed, designed and introduced, the protection and interests of disabled and older people are taken into account from the start. Retrofitting accessibility features can be lengthy and costly. We seek views on how regulation can best promote the accessibility of this new mode of transport. In particular we seek views on the key benefits and concerns that regulation should address (Consultation Question 24).[29]

KEY DEFINITION

6.2 The legal definition of disability is found in the Equality Act 2010: a physical or mental impairment which has a substantial and long-term (lasting for more than 12 months) adverse effect on a person's day-to-day activities. A wide range of impairments can affect mobility, including mental impairments. Regulations governing accessibility which are specific to existing modes of road transport would not automatically apply to HARPS. Any new system will need to be flexible so that it may be efficiently updated and re-evaluated.

CORE OBLIGATIONS UNDER EQUALITY LEGISLATION

6.3 The Equality Act 2010 requires providers of services not to discriminate, harass or victimise in providing a service, and imposes a duty to make reasonable adjustments for people with disabilities. Service providers must not discriminate against disabled people by refusing to transport them. The range of services covered is very broad and it is irrelevant whether the service is provided by a private, voluntary or public body and whether payment is taken. However, these duties only apply to land transport if the mode of transport is contained in the relevant statutory lists. The list expressly includes public service vehicles, taxis, private hire services and hire-vehicles. The statutory list would need to be amended to include HARPS vehicles.

6.4 Part 3 of the Equality Act 2010 is outcome-based and we suggest it could apply effectively even in the absence of a human driver. We seek views on whether extending it to apply to HARPS would be a positive step, or whether it may lead to any unintended consequences (Consultation Question 25).[30]

6.5 Taxi and private hire service providers cannot refuse to carry assistance dogs or to make any additional charge for doing so. "Designated" taxis and private hire vehicles must carry wheelchair users and must not charge them more than a non-wheelchair

---

29 Consultation Paper 2, para 6.11.

30 Consultation Paper 2, para 6.31.

user. A taxi or private hire vehicle is “designated” if it appears on a list maintained by its licensing authority.

6.6 The public sector equality duty requires public bodies (including for example local transport authorities and agencies responsible for licensing HARPS) to have due regard to the need to eliminate discrimination and remove disadvantages suffered by disabled people.

CO-DESIGN AND SAFETY OF VULNERABLE ROAD USERS

6.7 We refer to co-design as a method of design where older and disabled people representing a diverse range of impairments work together alongside designers, operators and regulators to ensure vehicles and services are accessible from the outset. This can help prevent barriers to mobility arising in the first place. The Department for Transport’s *Future of Mobility: Urban Strategy* notes that without co-design, there is a risk of “accidently ‘designing out’ sections of society who might benefit most”.

6.8 Co-design also has a safety-critical function. Data sets used to train how automated vehicles behave should contain information on a wide range of human impairments. It will be important to monitor how vehicles perform in respect of disabled and older road users. We considered these safety-critical aspects in our first consultation paper.[31]

SPECIFIC ACCESSIBILITY OUTCOMES AND THE WHOLE JOURNEY APPROACH

6.9 HARPS can cover a very broad category of services and we provisionally consider that a “one size fits all” approach would not be appropriate. Turn-up-and-go mass transit services on defined routes, for example, require a different approach in respect of accessibility compared to a purely pre-booked personal transport service.

6.10 We have used the whole journey approach (considering a trip from the point of departure to the destination) to help us identify specific accessibility outcomes for HARPS. These are intended as a practical framework to assess the accessibility of HARPS. They aim to highlight potential new issues raised by the absence of a human driver. They are not intended as requirements for every HARPS to meet but rather as criteria to help evaluate how accessible a HARPS is. These accessibility outcomes may be promoted through best practice guidance, regulation or statute for example.

6.11 In the full consultation paper we consider 12 accessibility outcomes in some detail, also providing analysis of how these are regulated in existing modes of road transport with a focus on PSV and private hire legislation. We have grouped these outcomes into three categories. Drivers play a crucial role in helping deliver safe and accessible transport. We seek views on how regulation can help make sure these accessibility outcomes continue to be delivered for older and disabled people in passenger services that do not have a driver (Consultation Question 26).[32]

---

31 Consultation Paper 1, Chapters 4, 5 and 9.

32 Consultation Paper 2, para 6.106.

Before and after travelling on the vehicle

6.12 First, we consider the outcomes relevant to the period before and after travelling on the vehicle such as the accessibility of the booking process and the means of getting on and off vehicles. Taxi and private hire drivers currently provide valuable support in these areas. We also discuss wheelchair accessibility.

During the journey

6.13 Second, we discuss outcomes relevant during transportation such as making sure passengers are safe and reasonably comfortable during the journey and that there is suitable provision for wheelchair users and priority seats. For example, buses with a capacity exceeding 22 passengers have strict regulation surrounding the provision of wheelchair spaces and priority seats on the lower deck. We also consider the importance of providing a reliable service and support in the event of disruption. We note the need to provide accessible information to passengers during their journey and ensuring disabled persons have the means to communicate with transport staff. Regulators have a responsibility to ensure that there are enough non-digital options to prevent digital exclusion.

Outcomes relevant to all aspects of the journey

6.14 Third, we consider outcomes relevant to all aspects of a journey, such as disability awareness training for transport staff as well as the merits of travel training and support for disabled users. HARPS with no human driver or staff on board may require additional regulation to help mitigate the risk of bullying and antisocial behaviour directed against disabled passengers. We set out the rights to travel with an assistance dog. We then consider suitable provision for carers accompanying disabled users. This is of great importance for HARPS due to the potential absence of transport staff over the full duration of the journey.

DEVELOPING NATIONAL MINIMUM ACCESSIBILITY STANDARDS FOR HARPS

6.15 As the technology and business models mature, it can be helpful if various aspects of journeys are standardised. For example, if the layout of the vehicles is the same, this may give a blind person confidence that they will be able to board the vehicle since they have boarded similar vehicles before. Knowing what to expect can help to make a journey more manageable for an anxious passenger. Of course, standardisation should not unduly inhibit innovation. By experimenting with new designs, developers may come up with solutions which are more convenient for disabled passengers. A balance needs to be struck between ensuring a degree of consistency and allowing new solutions to be tried. One possible way forward would be to develop guidance, including standard layouts, which in time could be embedded in regulation. We seek views on whether there should be national minimum standards of accessibility for HARPS and what such standards should cover (Consultation Question 27).[33]

[33] Consultation Paper 2, para 6.109.

ENFORCEMENT MECHANISMS AND FEEDBACK LOOPS

6.16 Having effective sanctions for breach of the Equality Act 2010 is an important aspect of promoting compliance. We ask consultees whether conforming with the Act could be made a condition of HARPS operator licences. That would mean that failure to make reasonable adjustments or to comply with relevant accessibility regulations made under the Act could trigger a possible suspension or loss of licence. This could be a more direct and effective route to redress than court proceedings which can be expensive and take a long time.

6.17 Real-time and effective mechanisms for customer feedback can help operators to identify what needs to be done to make their service more inclusive. It is also difficult to include the views of persons that do not travel at all because travel is so difficult. Feedback should therefore be sought from everyone, not just disabled people, and as broadly as possible. There also needs to be a mechanism for ensuring that operators take the feedback on board and act on it. Passengers must also be aware of their rights. We seek views on the best process to ensure complaints against HARPS operators are handled most effectively.

Data reporting requirements

6.18 The lack of data about disabled people's use of existing transport modes has hampered the ability to identify problems and monitor performance. A duty on HARPS operators to collect data that can help assess the experiences of everyone, including older and disabled people in HARPS can be an important element in promoting better results for all. We seek views (Consultation Question 28).[34]

[34] Consultation Paper 2, para 6.124.

Chapter 7: Regulatory tools to control congestion and cruising

7.1 One concern is that once "passenger-only" vehicles have received regulatory approval, large numbers of new vehicles will be placed on the road, adding to congestion and pollution. Where the cost of driving is less than the cost of parking, there is a danger than HARPS will "cruise" that is, circle around empty for no reason except to wait for the next booking. Transport for London has emphasised the importance of regulatory tools to address this issue.[35]

7.2 In Chapter 7, we consider the tools available to local transport authorities to reduce congestion and discourage empty cruising.

TRAFFIC REGULATION ORDERS

7.3 Under the Road Traffic Regulation Act 1984, local highway authorities have wide powers to make traffic regulation orders (TROs). We envisage that, as automation takes off, traffic authorities will use these powers to make many decisions about how HARPS circulate in their areas. At its most basic, TROs will regulate where HARPS can stop for boarding and alighting and whether they can use bus lanes. TROs could also be used to prevent HARPS from using a particular road or (alternatively) to dedicate the road only to HARPS.

7.4 Concerns have been raised that the procedure for creating TROs is cumbersome, expensive and out-of-date. Another problem is that TROs are not made in a standard digital format. Following work to create model digital TROs, the Department for Transport launched a review of legislation associated with TROs.[36]

7.5 Given these initiatives, we are not intending to carry out a full review of TROs as part of our own project. However, we welcome views on whether the law on TROs needs any specific changes to respond to the challenges of HARPS (Consultation Question 29).[37] We will pass these views to the Department for Transport.

PARKING CHARGES

7.6 One answer to the problem of empty cruising is to charge HARPS less for parking than for using the road. We therefore consider traffic authorities' powers to reduce parking charges for HARPS, compared to other classes of vehicle.

7.7 The issue is controversial. Traditionally, residents have been charged less – often much less –than those who pay for temporary on-street parking. Furthermore, attempts to impose or increase parking charges for residents have led to litigation. The law requires

---

35 TfL, Connected and autonomous vehicle statement (2019), para 17.

36 The Department for Transport, *Traffic Regulation Orders and Associated Data: Policy Alpha*, at https://www.digitalmarketplace.service.gov.uk/digital-outcomes-and-specialists/opportunities/9826.

37 Consultation Paper 2, para 7.23.

local authorities to use their powers to set charges only for the purposes set out in legislation. These are "to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities".[38]

7.8 We welcome views on possible barriers to adapting existing parking provision to deal with the introduction of HARPS (Consultation Question 30).[39] In particular, should the legislation expressly allow a wider range of considerations to be taken into account when setting parking charges for HARPS?

ROAD PRICING

7.9 Local authorities already have statutory powers to establish road charges. However, with the exception of the London congestion charge, the use of these powers has been limited.

7.10 There is considerable debate over the merits of road charges. A review of literature concluded that, when implemented well, road charges are an effective measure. They shift traffic to off-peak periods, ease congestion and are relatively cheap to implement compared with their social impact. On the other hand, road charges have often proved controversial. Notably, plans to introduce such charges in Edinburgh and Greater Manchester were comprehensively defeated in local referendums.

7.11 Once HARPS become common, local authorities may wish to consider introducing road pricing schemes specifically for HARPS. This could control congestion caused by HARPS in town centres at busy times, especially where HARPS travel empty or with single occupants. Local authorities may wish to use a balance of road pricing and parking charges to ensure the successful deployment of HARPS. We seek views on what an appropriate balance may be (Consultation Question 31).[40]

7.12 A HARPS-only road pricing scheme has advantages over generic schemes. Automated technology enables a more flexible approach to road pricing, at lower cost. We envisage that HARPS would pay a price per mile travelled, with the possibility of different mileage rates depending on the roads, occupancy and time of day. There is also the possibility of dynamic pricing, where charges vary depending on the level of congestion at a given time. A HARPS-only scheme may also be more acceptable to the public as there will be less sense of paying more for an existing service. It is important, however, that charges are not so high as to make HARPS uncompetitive.

A new statutory scheme?

7.13 It would be possible to introduce road pricing for HARPS under current legislation. On the other hand, we see benefits in a new statutory scheme. A new scheme could keep administrative costs low by introducing national standards and procedures. It could also allow the funds raised to be used in a greater variety of ways, including compensating for loss of parking income.

---

38 Road Traffic Regulation Act 1984, s 122(1).

39 Consultation Paper 2, para 7.59.

40 Consultation Paper 2, para 7.86.

7.14 We ask if transport authorities should have new powers to establish road pricing schemes specifically for HARPS (Consultation Question 32).[41] If so, we welcome views on the procedure for establishing a scheme, its permitted purposes and how the raised funds might be used.

A PHASED APPROACH TO INTRODUCTION

7.15 One fear is that the first developers to gain approval under the safety assurance scheme will put large numbers of vehicles onto the streets, so as to maximise their competitive advantage over subsequent suppliers. If introduced too suddenly, these vehicles could add to congestion and pollution and might introduce unanticipated safety concerns.

7.16 We see benefits in taking a phased approach to automated deployment, starting with a small number of vehicles and then gradually increasing numbers to maximise safety and manage risk. We provisionally propose that the agency charged with licensing operators should have flexible powers to limit the number of vehicles any given operator can use within a given area for the first few years (Consultation Question 33).[42]

QUANTITY RESTRICTIONS

7.17 Another possible regulatory tool is to impose a cap on the number of vehicles licensed for hire. Unlike the phased approach discussed above, this would limit the total number of vehicles available to all operators following full deployment.

7.18 In England and Wales (outside London) licensing authorities have the power to limit the number of taxi vehicle licences issued in their area. However, they do not have powers to limit private hire vehicles. In Scotland, local authorities may impose quantity restrictions on *both* taxis and private hire cars. In April 2019, Glasgow City Council became the first licensing authority in the UK to limit the number of private hire car licences issued in its area.

7.19 Quantity restrictions are highly controversial. The Competition and Markets Authority puts the case against quantity restrictions in the following terms:

> Quantity restrictions may cause harm to passengers through reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares and reduced choice. They also may increase the risk to passenger safety if they encourage the use of illegal, unlicensed drivers and vehicles.[43]

---

41 Consultation Paper 2, para 7.87.

42 Consultation Paper 2, para 7.97.

43 Competition and Markets Authority, Guidance: *Regulation of taxi and private hire vehicles: understanding the impact on competition* (12 July 2017), https://www.gov.uk/government/publications/private-hire-and-hackney-carriage-licensing-open-letter-to-local-authorities/regulation-of-taxis-and-private-hire-vehicles-understanding-the-impact-on-competition.

7.20 However, many involved in the taxi trade favour quantity restrictions, and several councils who removed restrictions have later reinstated them. In 2014, the Law Commission reported that the evidence of what happens when restrictions are removed is mixed and can be difficult to predict.[44]

7.21 We would not favour a scenario in which large numbers of HARPS are placed on the road, cause concern and then generate an "overprovision policy" which places a cap on numbers. This could restrict competition and deprive the public of the benefits of innovation. An arbitrary cap would protect incumbents and prevent competitors from entering the market, even if the subsequent firms would have been able to offer a better service. It would also be difficult to determine the level of the cap as people will be reluctant to relinquish their private cars until the new service is fully available.

7.22 While we sympathise with the many city authorities grappling with problems of congestion, pollution and climate change, we think that these would be better addressed preventively, through traffic management and road pricing, rather than through overall quantity restrictions. We ask consultees if they agree (Consultation Question 34).[45]

---

44 Taxi and Private Hire Services (2014) Law Com No 347, paras 11.16 to 11.64.

45 Consultation Paper 2, para 7.120.

Chapter 8: Integrating HARPS with public transport

8.1 Principle 4 of the Government's *Future of Mobility: Urban Strategy* is that "mass transit must remain fundamental to an efficient transport system".[46] HARPS may contribute to mass transit in two ways. First, they may form part of local bus services. Secondly, smaller vehicles could be part of an overall transport mix which encourages the use of mass transit.

HARPS AS LOCAL BUS SERVICES

The current system of bus regulation

8.2 Bus regulation in the Great Britain is complex, with both regulated and deregulated elements. In Chapter 8 we provide a short history to explain how this complexity arose, and then set out the current system.

8.3 The major division is between London and the rest of the country. Outside London, the system is deregulated. Private operators decide what services to run, when to run them and how much to charge. These services must then be registered with the Traffic Commissioners, who have powers to enforce punctuality standards, checking that that operators broadly meet their promises.

8.4 By contrast, London has a "franchised system". Transport for London specifies routes, fares and service levels. Services are then contracted out to private companies on a tendered basis. To run a bus service in London, the operator must fall into one of two categories. They must either be part of the franchised bus network (by holding a "London Local Service Agreement") or apply for a "London Service Permit" to run an alternative service.

8.5 The Bus Services Act 2017 allows other transport authorities to set up similar franchise schemes. At the time of writing, no other franchise schemes exist, though Transport for Greater Manchester is considering this option.

8.6 The Bus Services Act 2017 also provides for partnerships between local authorities and bus operators. In broad terms, local authorities who provide facilities for bus operators can require operators to meet service standards. There are also statutory powers by which local authorities can require bus operators to take part in joint ticketing schemes.

---

[46] See Department for Transport, *Future of Mobility: Urban Strategy* (March 2019), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786654/future-of-mobility-strategy.pdf, p 8.

When should a HARPS be regarded as a local bus service?

8.7 Under our terms of reference, we have not been asked to evaluate the current system of bus regulation. Instead, we focus on when HARPS should be regarded as "a local bus service". In other words:

(1) Outside London, when should a HARPS be required to register with the Traffic Commissioners and (for example) be subject to punctuality requirements?

(2) Within London or another franchised system, when should a HARPS hold either a Local Service Agreement or a Service Permit?

8.8 At present, the Transport Act 1985 defines a bus service as one using PSVs to carry passengers by road at separate fares. For it to be local, passengers must be able to alight within 15 miles, as measured in a straight line. There are then a wide range of exclusions, applying (for example) to school buses, rail replacement bus services, and community groups.

8.9 We provisionally propose that a HARPS should only be subject to bus regulation if it can transport more than eight passengers at a time and charges separate fares (Consultation Question 35).[47] We also provisionally propose that the current exceptions should continue to apply in substance (Consultation Question 35).[48] We ask if this will cause any problems (Consultation Question 36).[49] We particularly welcome views on how it might affect flexible services which do not have a fixed or regular route (Consultation Question 37).[50]

ENCOURAGING MASS TRANSIT: MOBILITY AS A SERVICE

8.10 HARPS have the potential to reduce congestion by increasing the number of "multi-modal trips", where (for example) users take a HARPS vehicle to the station and a train to the city centre. However, there is a danger that once people get into a single-occupancy HARPS they will take it to their final city centre destination.

8.11 One way to encourage multi-modal trips is to provide good quality information about transport options together with seamless ticketing, using Mobility as a Service technology (MaaS). MaaS is a digital platform which provides information on a wide range of transport options, giving the user a straightforward way to plan and pay for their transport in one place. However, making MaaS a reality is difficult, as it requires operators to share information and cooperate over fare structures.

8.12 Where HARPS fall within the definition of a "local bus service", they would be subject to the partnership and ticketing schemes which apply to buses. However, these would not apply to smaller HARPS which are not buses but which could be used to feed people into and away from mass transit.

---

47 Consultation Paper 2, para 8.92.

48 Consultation Paper 2, para 8.92.

49 Consultation Paper 2, para 8.94.

50 Consultation Paper 2, para 8.95.

8.13 We see a need to promote collaboration between local authorities and operators of smaller HARPS vehicles in order to encourage multi-modal trips. One option would be to enact new statutory powers, so that a transport authority which provides facilities for HARPS could place requirements on operators. For example:

(1) The transport authority could provide facilities such as use of priority lanes and waiting space near stations and other transport hubs.

(2) In return, operators could be required to participate in a MaaS scheme, by making information available, allowing booking through a single app and co-operating over ticketing.

8.14 We welcome views on whether to legislate for collaboration along these lines (Consultation Question 38).[51]

[51] Consultation Paper 2, para 8.109.

Chapter 9: Consultation Questions

This is a list of the questions in Consultation Paper 2 on Passenger Services and Public Transport. Paragraph references are to that paper.

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?

Consultation Question 2 (Paragraph 3.86):

Do you agree that there should be a national scheme of basic safety standards for operating a HARPS?

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)?

Consultation Question 4 (Paragraph 4.34):

Is the concept of “carrying passengers for hire or reward” sufficiently clear?

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.

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).

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?

Consultation Question 8 (Paragraph 4.73):

How should a transport manager demonstrate professional competence in running an automated service?

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"?

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?

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?

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)?

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?

Price information

Consultation Question 14 (Paragraph 4.133)

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, and/or

(2) withdraw the licence of an operator who failed to give price information?

Who should administer the system?

Consultation Question 15 (Paragraph 4.138)

Who should administer the system of HARPS operator licensing?

Freight transport

Consultation Question 16 (Paragraph 4.140)

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

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?

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?

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?

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.

(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?

Will consumers require technical help?

Consultation Question 21 (Paragraph 5.47):

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?

Peer-to-peer lending

Consultation Question 22 (Paragraph 5.53):

We welcome views on whether peer-to-peer lending and group arrangements relating to passenger-only vehicles might create any loopholes in our proposed system of regulation.

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.

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.

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?

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?
(2) Requiring reassurance when there is disruption and accessible information?
(3) Expansion of support at designated points of departure and arrival?

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.

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.

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.

Regulating use of the kerbside

Consultation Question 30 (Paragraph 7.59):

We welcome views on possible barriers to adapting existing parking provisions and charges to deal with the introduction of HARPS.

In particular, should section 122 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?

Road pricing

Consultation Question 31 (Paragraph 7.86):

We seek views on the appropriate balance between road pricing and parking charges to ensure the successful deployment of HARPS.

Consultation Question 32 (Paragraph 7.87):

Should transport authorities have new statutory powers to establish road pricing schemes specifically for HARPS?

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.

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?

Consultation Question 34 (Paragraph 7.120):

Do you agree that there should be no powers to impose quantity restrictions on the total number of HARPS operating in a given area?

CHAPTER 8: INTEGRATING HARPS WITH PUBLIC TRANSPORT

The current system of bus regulation: HARPS as mass transit

Consultation Question 35 (Paragraph 8.92):

Do you agree that a HARPS vehicle should only be subject to bus regulation:

(1) if it can transport more than eight passengers at a time and charges separate fares; and
(2) does not fall within an exemption applying to group arrangements, school buses, rail replacement bus services, excursions or community groups?

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.

Consultation Question 37 (Paragraph 8.95):

We welcome views on whether a HARPS 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?

Encouraging use of mass transit: Mobility as a Service

Consultation Question 38 (Paragraph 8.109):

We seek views on a new statutory scheme by which a transport authority that provides facilities for HARPS could place requirements on operators to participate in joint marketing, ticketing and information platforms.