

Response ID ANON-4SZG-NM18-C

Submitted to **Law Commission Consultation on Automated Vehicles: Passenger services and public transport**
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About you

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

Responding on behalf of organisation

If other, please state::

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

Tell us whether you want your response to be kept confidential:

Privately-owned passenger-only vehicles

Consultation Question 17: Do you agree that those making "passenger-only" vehicles available to the public should be licensed as HARPS operators unless the arrangement provides a vehicle for exclusive use for an initial period of at least six months?

Not Answered

Please explain::

Consultation Question 18: Do you agree that where a vehicle which is not operated by a HARPS licence-holder is authorised for use without a user-in-charge, the registered keeper should be responsible for:

Not Answered

Please explain::

Consultation Question 19: Do you agree that there should be a statutory presumption that the registered keeper is the person who keeps the vehicle?

Not Answered

Please explain::

Consultation Question 20: We seek views on whether:

Please share your views::

Please share your views::

Q20(2) asks whether the lessor who is registered as the keeper of the passenger-only vehicle should only be able to transfer the following obligations to a lessee if the duties are clearly explained to the lessee and the lessee signs a statement accepting responsibility:

1. Insuring the vehicle

2. Keeping the vehicle roadworthy
3. Installing safety-critical updates
4. Reporting accidents
5. Removing the vehicle if it causes an obstruction or is left in a prohibited place.

Assuming this includes transferring to an individual, (3) and (5) seem quite onerous. Failure to do (3) could have quite significant consequences regarding the right of insurers to recover from those at fault. We would also question whether insurers will be proactive in checking before rather than after the event that safety critical updates are installed by the HARPS company (or individual). Regarding (5), even if a lessee had been well-briefed on the possibility of a passenger-only vehicle becoming an obstruction, they may not feel equipped to deal with moving it, especially if this happens in a congested place.

We suggest it may be premature to think about transferring all of these duties from a lessor to a lessee, since the lessor will not have a clear picture of what these duties entail until passenger-only vehicles have been up and running for a while. The lessor would be unable to give a clear explanation of scenarios that they themselves could not foresee.

In our view a statement accepting responsibility signed by the lessee might waive the lessor's liability but could fall short of a legal document that safely transfers onerous obligations.

For all the above reasons we would have serious concerns about transferring all of obligations 1-5 to an individual (or a non-HARPS company).

The IFoA and the Royal Statistical Society have jointly produced a Guide for Ethical Data Science, which identifies five key themes in this area. Two which we believe are relevant to this question are "Avoid harm" and "Maintain accountability and oversight".

Consultation Question 21: Do you agree that for passenger-only vehicles which are not operated as HARPS, the legislation should include a regulation-making power to require registered keepers to have in place a contract for supervision and maintenance services with a licensed provider?

Yes

Please explain::

Given the obligations stated in Q20 above and the potential consequences if things go wrong we think there should be a regulation-making power to require registered keepers to have in place a contract for supervision and maintenance services with a licensed provider. We think such regulations would allay some of the concerns set out above for Q20.

Consultation Question 22: We welcome views on whether peer-to-peer lending and group arrangements relating to highly automated passenger-only vehicles might create any loopholes in our proposed system of regulation.

Yes

Please explain: :

In principle, passenger-only vehicles would seem an ideal asset-sharing opportunity i.e. be driven to work and while at work let your vehicle be available for others to be driven around. Over-regulation could cause inefficient use of the vehicle park, or unregulated sharing ("who will know that I'm charging for it?"), while under-regulation could lead to safety being compromised.

In considering peer-to-peer lending and group arrangements we believe safety should be paramount. Care is needed to ensure that peer-to-peer lending is not seen as a way to avoid the HARPS requirements. We would support regulation-making powers to introduce some form of peer-to-peer 'HARPS-lite' but we suggest waiting until it is easier to predict the likely consequences.

In relation to current ride-sharing and car sharing, we understand insurers have agreed that insurance is not affected if passengers are only contributing to running costs i.e. not-for-profit. We would welcome some clarification on why this should suddenly change when revenue/profit is involved. For example, is it because charging is seen by insurers and others as a change in the main use, with an increase in legal responsibilities and increased exposure?

Consultation Question 23: We seek views on whether the safety assurance agency proposed in Consultation Paper 1 should be under a duty to ensure that consumers are given the information they need to take informed decisions about the ongoing costs of owning automated vehicles.

Please share your views::

Other comments

Is there any other issue within our terms of reference which we should be considering in the course of this review?

Please share your views::

Proof of insurance

Passengers getting into a passenger-only vehicle will want to be confident that it is safe to do so. We believe there is a case for requiring an insurance certificate to be displayed in such vehicles (with contact details for the insurer). At a minimum it should be a requirement to show contact details for the HARPS operator who presumably will know who the insurer is (unless they have transferred the obligation to insure the vehicle to another party).

Retrofitted technology

Retrofitted driverless car technology may introduce more complexity into the system if there are separate 'owners' of the vehicle and the retro fitted technology. When you buy the vehicle it may be 'driverless ready' but at some later stage when the [5G] infrastructure is ready it may have kit fitted that makes it capable of being a passenger-only vehicle. It may be that it is considered that such retrofitted vehicles would need a user in-charge and so are outside the scope of LCCP 245.

Safety critical updates

Perhaps proposals around safety-critical updates should be assessed in the light of current insurance requirements. Do insurers currently check that the cars they insure have a valid MOT or is this one of things sometimes checked at the point of a claim? We suspect that the current requirement for a car to be kept in a roadworthy condition is not given much prominence in the insurance sales and/or auto renewal process.