



## Law Commission

# Automated Vehicles: Consultation Paper 2 on Passenger Services and Public Transport

### Response from:

#### *British Vehicle Rental and Leasing Association*

River Lodge

Badminton Court

Amersham

BUCKS HP7 0DD

Tel: +44 1494 434747

E-mail: [info@bvrla.co.uk](mailto:info@bvrla.co.uk)

Web: [www.bvrla.co.uk](http://www.bvrla.co.uk)

***Bona-fides***

**BVRLA, the industry and its members**

- Established in 1967, the BVRLA is the UK trade body for companies engaged in vehicle rental, leasing and fleet management.
- BVRLA members are responsible for a combined fleet of over five million cars, vans and trucks on UK roads, that's 1-in-8 cars, 1-in-5 vans and 1-in-4 trucks. The vehicle rental and leasing industry supports over 465,000 jobs, adds £7.6bn in tax revenues and contributes £49bn to the UK economy each year.
- On behalf of its 1,000+ member organisations, the BVRLA works with governments, public sector agencies, industry associations and key business influencers across a wide range of road transport, environmental, taxation, technology and finance-related issues.
- BVRLA membership provides customers with the reassurance that the company they are dealing with adheres to the highest standards of professionalism and fairness.
- The association achieves this by maintaining industry standards and regulatory compliance via its mandatory Codes of Conduct, inspection and governance programme and government-approved Alternative Dispute Resolution service. To support this work, the BVRLA promotes best practice through its extensive range of training, events and information-sharing activities.

**Response from:** British Vehicle Rental and Leasing Association

**Address:** River Lodge, Badminton Court, Amersham, HP7 0DD

**Contact:** Catherine Bowen, Senior Policy Advisor

**Phone:** +44 1494 545712

**Email:** [catherine@bvrla.co.uk](mailto:catherine@bvrla.co.uk)

## Introduction

The British Vehicle Rental and Leasing Association (BVRLA) represents over 1000 members in the vehicle rental and leasing sector. BVRLA members and their customers are collectively responsible for over 5 million vehicles on UK roads, purchasing around 50% of new vehicles sold annually in the UK, including a third of all new electric and hybrid vehicles, making the fleet sector crucial to decarbonising emissions in road transport.

Consumer protection and the safety and security of vehicles is of paramount importance to BVRLA members. While the BVRLA and its members can see the need to set a regulatory framework for autonomous passenger services there is some scepticism about why the keeper should have obligations that go beyond those that already exist for 'regular vehicles'.

When thinking about fully autonomous driverless vehicles there are a number of questions raised about how to ensure the safety of both passengers and other road users when there is no driver in charge of the vehicle:

- **Technology updates and failures**  
We have all experienced computer blue screens or mobile phone lock outs. If software updates are delivered over the air for autonomous vehicles who ensures that these are processed correctly and have corrected the issue that needed fixing?
- **Hacking**  
Vehicles with remote access can be hacked and/or have security functions overridden. If every bus in London was operated autonomously it would make a hugely attractive target to hack and request a ransom or worse to use vehicles as a weapon in acts of terrorism.

We would resist any implication that these risks should sit with a lessor. Ordinarily obligations are passed on to the lessee as the driver of the vehicle, for example if there is a product recall the lessor would do everything to pass the information on and to get the lessee to take action but ultimately the risks sit with the lessee. When thinking about fully autonomous driverless vehicles there does not appear to be anyone taking the role of the driver/person in charge, which raises several questions about where responsibilities lie.

Feedback from members has indicated that fully autonomous vehicle operation should only ever be signed off once there is absolute confidence in the insurance and legislative regime.

**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?**

Yes, not having this would make operation of a national fleet potentially onerous

**Consultation Question 2** (Paragraph 3.86):

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

Yes

**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)?**

Yes, however "Reward" needs to be further defined.

**Consultation Question 4** (Paragraph 4.34):

**Is the concept of "carrying passengers for hire or reward" sufficiently clear?**

No. The term "Reward" needs to be further explored, not only for Public Service Vehicles (PSVs) but for other uses.

**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.**

This depends on the nature of the exemptions. Safety is paramount for both passengers and other road users. There should be no exemptions when it comes to safety and security standards. Standards must be consistent regardless of the identity of the operator.

**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).**

Currently it is possible to test automated technologies without any sort of additional licence, provided it is in compliance with road traffic law. However, if the HARPS operator licence scheme is deployed, no exemptions should be granted on trials as the main purpose of the tests is to ensure road safety and protection of individual's rights.

**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?**

Yes.

**Consultation Question 8** (Paragraph 4.73):

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

Certifications must be instituted. Whilst it is true that in early stages written examinations on how to run HARPS would be difficult to standardise, minimum requirements on safety and overall competence should be proven, in practice as well as in theory. With time, these certifications can evolve and become a single standard examination.

**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”?**

Yes, provided industry players align on what the adequacy qualification entails.

**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?**

Yes, but this would depend on the extent of control HARPS operators have on the functioning of the vehicle or if there has been a delegation of such duties. This will need further assessment as the reality of autonomous passenger vehicles gets closer.

**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?**

Yes, but with exceptions.

For vehicle supervision, and reporting, statutory provisions must be put in place to ensure fair and equal access to in-vehicle data, so HARPS operators, if different from manufacturers, can compete on an equal level with vehicle manufacturers by accessing the vehicle, its data and functions in an independent way.

We need clear parameters of what is understood regarding the steps to safeguard passengers from assault, abuse or harassment and its applicability outside of Public Services HARPS operators. This type of responsibility needs to be further discussed as regardless of mechanisms that may be implemented, there will always be unforeseen risks associated. Also, the implications of delegating these duties should be explored alongside its applicability to private HARPS operators.

**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)?**

Certainly during any testing phase but once full implementation is rolled out, this obligation could become administratively burdensome. Associated costs would also need to be considered to ensure indiscriminate access to the HARPS operator scheme.

**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?**

Yes, but as above, obligations would need to be further analysed.

**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?**

As long as there is an opportunity for fair competition and consumer protection via price transparency /comparison we would question whether these powers are needed in addition to what already exists.

It is unclear how this service differs from any other service and whether a separate power is required to control consumer law issues?

**Consultation Question 15** (Paragraph 4.138)

**Who should administer the system of HARPS operator licensing?**

If such a system was deemed necessary, then we would suggest this should be administered by the Department of Transport in conjunction with industry participants.

**Consultation Question 16** (Paragraph 4.140)

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

Due to this consultation relating to passenger services and public transport this appears to be slightly out of scope for this consultation. This would potentially warrant a separate consultation if autonomous freight movements are being realistically considered.

## 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?**

Yes, however, if it's a genuine exclusive private use, 6 months could be challenged. Reporting, control, maintenance and breakdown assistance should still be controlled by an operator/the user. Lease agreements are usually for a fixed term, thus how can the position be monitored/controlled?

This also raises a number of questions about where the responsibility for ensuring safety sits.

### *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?**

Yes, this should be no different to a lessee under a lease and should be the same as is currently applied for human driven vehicles.

**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?**

Yes, but the presumption should be capable of rebuttal.

**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?**

The lessee should not only be “informed” but also have the transfer of the duties agreed and evidenced. However, this raises a question about whether it is appropriate for everything to be left to the lessee. For example, how would critical updates be communicated and where does the responsibility lie to ensure these are acted on?

**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?**

This would need to be subject of further discussion. Associated costs could impact implementation feasibility as there would not be much competition in the market, at least in the early stages.

**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.**

Peer to peer lending needs to be subject to the same controls to ensure consumer protection/safety. Someone needs to take responsibility as this cannot rest with the driver. It should sit with a licensed operator, and this shouldn't be the lessor/financer.

**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.**

Yes, consumers must be informed of all aspects that may affect the operational and maintenance costs. As discussed in other initiatives, the fact that vehicle manufacturers retain control of the in-vehicle generated data (through the Extended Vehicle model) prevents independent businesses from embracing digital opportunities, jeopardising consumer choice and innovation, as only a

small part of the vehicle-generated data will be shared and there is no direct real-time communication with the vehicle, its functions or the driver. This affects consumer choice and hinders a competitive “after-market” in the field of repairs and servicing. Additionally this would not only be relevant to privately-owned passenger-only vehicles but also to the relevant HARPS operators.

It will be expensive to run these vehicles as the multiple cameras/lasers are likely to become misaligned and could threaten passenger safety.

**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.**

The regulation should address the following:

- Ensuring full automation is achieved and that no driver/passenger intervention is required.
- Ensuring HARPS are in full control of the vehicle and provide assurances as to the safety and immediate assistance provision if required.

**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?**

If it is a public service HARPS operator, then they should apply. But the same duty cannot be imposed in private hire HARPS operators, or if they do, then costs associated with the reasonable adjustments needed must be taken into account and variable fees should be allowed and not be considered as discriminatory.

**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?**

Reasonable adjustments

**(2) Requiring reassurance when there is disruption and accessible information?**

n/a

**(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.**

n/a

**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.**

Yes, but the type of data required and access to this data needs to be evaluated.

**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.**

Yes.

**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?**

n/a

**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.**

Pricing restrictions could affect development and fair competition in the market.

**Consultation Question 32** (Paragraph 7.87):

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

As above, guidance can be given but pricing schemes should be discussed at a much later stage.

**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.**

**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?**

Yes, but this depends on the number of developers that participate as HARPS development should not be hindered if supported reasons for the limitation have not been attained. We are unaware of how rapidly HARPS can evolve and thus imposing a set limitation without having factual evidence could be arbitrary and not in the public's interest.

**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?**

No. This depends on the area and the accessibility of the area (i.e. infrastructure) for human driver vehicles.

**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?**

n/a

**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.**

n/a

**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?**

n/a

**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.**

To be further analysed. Associated costs need to be considered to ensure all players in the market can participate.