



Response to Department of Transport

CCAV - Automated Vehicles: statement of safety principles

September 2025

About us

The Forum of Complex Injury Solicitors (FOCIS) are a group of pre-eminent solicitors who specialise in acting for seriously injured people in personal injury and clinical negligence claims. The objectives of FOCIS are to:-

- Promote the highest standards of representation for claimants with life-changing injuries;
- Increase understanding in the wider community of issues which arise for those who suffer serious injury;
- Use members' expertise to promote debate and improvements to the law and legal process; and
- Share knowledge and information among members of the Forum.

Further information is available here: <https://focis.org.uk/>

Membership of FOCIS is intended to be at the most senior level of the profession. The only formal requirement is that members are recognised by their peers as having achieved a pre-eminence in one or more specialist types of serious injury claim. We currently have 24 members, including members from England, Scotland, Wales and Northern Ireland. Nine of the past presidents of APIL are members or Emeritus members of FOCIS. Firms represented by FOCIS members include:

Anthony Gold	Hugh James
Ashtons Legal	Irwin Mitchell
Balfour + Manson	JMW Solicitors
Bolt Burdon Kemp LLP	Leigh Day
Dean Wilson LLP	Moore Barlow
Digby Brown	Osbornes Law
Fieldfisher	Slater and Gordon
Fletchers	Stewarts
Freeths	Switalskis Solicitors
Gadsby Wicks	Thompsons Solicitors
Hodge Jones & Allen	

Introduction

FOCIS is grateful for the opportunity to respond to the Department for Transport's Call for Evidence on Automated vehicles: statement of safety principles. In line with the remit of our organisation, we restrict our responses relating to our members' experience, practices, and procedures relating to complex injury claims only. Our responses therefore begin from question 8, then recommence at question 15 of the consultation.

Question 8: in your view, what considerations should be taken into account when assessing at pre-deployment whether automated vehicles meet the expectations set by the SoSP?

We defer to the Department of Transport on the considerations that should be taken into account. However, any later software updates should also undergo rigorous testing prior to deployment to vehicles to avoid any new features overwriting existing safety protocols or creating new safety risks.

Question 15: provide any evidence you are aware of on the current performance of human drivers.

The 'Reported road casualties Great Britain' annual report gives an insight into the current performance of human drivers. This report is published by the Department for Transport using data gathered by the police via the STATS19 reporting system. The annual reports (latest available [here](#)) provides data on the severity, road user group, age and sex of road casualties. Insurers should also hold data on claims for property damage and personal injury claims which would provide an insight on the current performance of human drivers.

Question 16: in your view, does human driving performance improve with competence?

Yes, but it can fluctuate through a human's lifetime, for example reaction times and skills may reduce with age.

Question 17: why do you think this? Provide evidence if possible.

It is common knowledge. We defer to insurers who likely hold data relating to driving performance in respect of claims or accidents. This data should include driver age and/or years post the issue of a full driving licence.

Question 18: in your view, what characterises careful and competent human driving, and why? Your answer may like to consider capabilities, behaviours and outcomes.

The call for evidence documents note the various sources setting out the expectations for human drivers, including the Highway Code, legislation and driver education documents. Importantly, there are differences in how driving standards are considered in the criminal courts and the civil courts. The Highway Code sets out both legal requirements and advisory rules for human drivers. It is quite possible that there is a significant number of drivers who have not read the Highway Code for more than a decade, so public education is still needed in this regard.

The idea of a 'competent and careful' driver as being the standard is higher than that of an average human driver, but we consider it to be necessary in relation to autonomous driving. As detailed in previous responses on this topic and indeed in this call for evidence, we consider that public confidence will only increase, and accidents on UK roads reduce, if these new vehicles are capable of a standard that is higher than a human who would be subject to distraction, fatigue and other external factors. Careful and competent human driving includes

considerations of other road users, for example, in reacting to an unpredictable event. As alluded to in this call for evidence, not every driver would react in the same way to a potential hazard or scenario: this is not always due to the competency of the driver, but rather what they perceive around them and their related decision-making process. An example previously referenced in relation to autonomous vehicles is how a human would deal with a collision ahead, i.e. would it be 'safer' to collide with the rear of another vehicle, or to swerve into another lane potentially causing more harm to other road users? This may involve a split-second decision and not all drivers would perceive all potentially relevant sensory information, nor make the same decision. An autonomous vehicle should be programmed to take the objectively least harmful (to all) option in such scenarios, with an ability to receive and process more sensory information than a human.

Question 19: do you agree or disagree with the considerations we have outlined in thinking about careful and competent automated driving?

We agree to some extent. It is imperative the 'careful and competent automated driving' is one standard as it does not need to allow for human competency errors such as distraction or fatigue. An automated vehicle might be able to react to objects beyond the line of sight of a human driver, and simultaneously identify and react to objects from all angles. This is likely to be beneficial, but there are also, as mentioned, situations where the vehicle may need to come to a stop and await assistance from a remote operator.

Question 20: which consideration do you disagree with and why? Provide evidence if possible.

Save for exceptional circumstances, the scenario of a vehicle coming to a "stop in lane" to await remote assistance should be avoided. It is crucial that these vehicles have adequate perception of all aspects of their surroundings in order to avoid a stop in lane.

If the vehicle has a fault which renders it unable to progress and a stop in lane is unavoidable, it should have capacity to warn other road users. In addition to activating hazard lights these vehicles all ought to be capable of relaying a signal to emergency services and to other road users via all commonly used GPS services.

Question 21: in your view, how might the assessment of careful and competent driving differ between human drivers and automated vehicles?

Careful and competent driving in an automated vehicle must be a consistent high standard. Automated vehicles can be expected to be able to more rapidly and simultaneously detect and respond to objects from multiple directions. The standard in relation to humans must make allowances for field of vision, reaction times, fatigue, distraction, variable driving experience etc.

Question 22: in your view, what are the implications of setting a safety standard equivalent to careful and competent human drivers?

A safety standard equivalent to careful and competent human drivers should be viewed as the minimum. It is acknowledged that this is a standard higher than the average human driver. Whilst we appreciate the differences between setting the standard and it then being reached, self-driving must be introduced on this basis to instil confidence and in turn ensure that the public are able to embrace the benefits of automated vehicles.

Question 23: in your view, what characterises a standard higher than careful and competent human driving and why? Your answer may like to consider capabilities, behaviours or outcomes.

As mentioned above there are some aspects of autonomous vehicles (e.g simultaneously detect and respond to objects from multiple directions) that ought to enable them to operate at such a higher standard. A balance must be struck between development of innovative technology and a long-term benefit to the general public in increasing road safety.

Whatever standard is initially adopted it should be subject to regular review against the number of injuries and/or deaths caused by autonomous vehicles. The standard will be need to be revisited and revised to a higher standard if accident numbers and severity do not reduce within a set review period.

Question 24: in your view, what are the implications of setting a higher safety standard than careful and competent human drivers?

A higher safety standard would hopefully significantly reduce the number of road collisions and injuries.

Question 25: in your view, what evidence should be used to assess the safety impact that automated vehicles have on other road users through the hierarchy of road users? Provide specific evidence to support your response.

Collision data will be required from insurers and manufacturers, as well as data already held by the police and DfT. Collision data for AVs should include the status of any victim (i.e whether they were a pedestrian, cyclist, horse rider, motorcyclist etc.) according to the Highways Code hierarchy, as well as information on the involvement of other road users following a collision report or claim.

We defer to the police and the DfT in respect of evidence which they can provide. Similarly, automated vehicles must be placed appropriately within the Highways Code hierarchy of road users in order that owners are fully aware of its place. Technology must be developed to detect and respond appropriately to other road users, for example, a pedestrian who has stepped into the road, or a horse which has reacted unpredictably. We defer to the developers as to how best this is detected and responded to by the vehicle.

It will be imperative for manufacturers, developers and insurers to maintain data regarding involvement of other road users, and of which 'type' following any collision report or claim raised.

Question 26: what evidence are you aware of about the safety impact that automated vehicles will have on groups with protected characteristics?

Automated vehicles have the potential to benefit those who may be unable to drive a conventional vehicle, including those with protected characteristics. Automated vehicles should therefore be developed in a way in which keeps those people as users of the vehicles in mind, and should include features such as voice control and wheelchair accessibility. Other features that may support vulnerable road users should also be considered in the development of automated vehicles.

Question 27: do you agree or disagree that the equality and fairness safety principle should be included within the SoSP?

Agree.

Question 29: do you agree or disagree that an equality and fairness safety principle should focus on all road users?

Agree.

Question 30: why do you think this? Provide evidence if possible.

The development of automated vehicle technology must be inclusive and conducted in a way in which all road users will be able to benefit from the technology. A failure to do so will negatively impact public confidence and engagement with such technology.

Question 31: in your view, what metrics, if any, should be considered to support monitoring and evaluation of performance against an equality and fairness safety principle?

When providing data, insurers and manufacturers should also provide details of any injured party with protected characteristics.

Question 32: in your view, what outcomes should be considered for the monitoring and evaluation of performance against the SoSP?

Please see response to Q34.

Question 33: in your view, what sources of information could be used to monitor and evaluate performance of these outcomes?

Data from insurers in relation to collisions and/or claims as well as data from manufacturers which should be monitoring performance via on board data and servicing/fault reports.

Question 34: in your view, what evidence sources could be used to compare the safety performance of human drivers and automated vehicles?

In the initial phase, data collection should include all accident reports, including incidents involving single vehicles. This broad scope data collection process is essential for accurately assessing AV performance. Over time, the data collection could be more focused on serious injuries and fatalities to enable the comparison of human driver and AV safety and to track performance against the SoSP.

Manufacturers and developers will likely hold key data and this must be made accessible for review. Whilst the call for evidence references STATS19, this data has limitations including the exclusion of incidents in car parks, private driveways and off-road collisions. If STATS19 is to be used for AV monitoring, a distinct vehicle category should be added. Under-reporting and under-recording of collisions remain a concern and impact the quality of the data as not all incidents are reported and not all road collisions are reportable. To improve accuracy, AVs should be required to automatically report collisions via onboard technology systems. We defer to the manufacturers as to how this might be achieved, bearing in mind that on board data might also include personal data of the user. However, if such information needs to be reviewed/reported during pre-deployment, we would hope the process could be refined and replicated for collision data and monitoring post deployment.

Given the challenge of comparing AVs to human drivers, we suggest presenting a sample of serious collisions involving AVs to focus groups containing a diverse range of ages and competencies to gauge how they would have responses to a similar incident or have the actions replicated via sufficiently realistic and reliable simulator. Data from police, insurers, and manufacturers will help identify whether incidents stem from human error or AV behaviour. The emphasis for government review should be on injury-causing collisions rather than total numbers.

Under the AVA s1, if insurers are to be directly liable for injuries caused by an automated vehicle, they will hold claims data of collisions which include injuries to another party.

It will be important to consider how much responsibility is placed on the “user in charge” of an automated vehicle, but this is out of scope of this consultation.

It would be reasonable for automated driving systems to be compared against each other, both in pre and post deployment and the ongoing monitoring phase.

Question 35: in your view, what metrics comparing the safety performance of human drivers and automated vehicles should be annually reported on by the Secretary of State for Transport?

Insurers should be able to provide details of:

- The number of collisions
- Parties involved, i.e. single vehicle, another driver, vulnerable road user
- Location of collisions – to ascertain any ‘hot spots’
- Type of road/junction
- Circumstances that contribute to a collision. This may include the involvement of animals, defective signage etc. and should therefore be a defined list of common types of circumstances that contribute to a collision, including the parties involved, to enable effective data collection.
- Involvement of anyone with protected characteristics
- Time of day
- Lighting conditions
- Weather conditions
- Injuries sustained and by whom
- Fatalities
- Human driver – years driving and age
- Whether the driver was impaired – i.e. by drink/drugs, fatigue
- Whether a charge of a driving offence has been made
- Whether a claim was made by the insured – damage or injury

Question 41: any other comments?

The issue of data sharing is addressed in the supporting documents to this call for evidence and may form part of the authorisation process under the Automated Vehicle Act 2024. We recommend that this data be made available to injured victims of road collisions and their legal representatives at the start of the claims process and without delay or the need for a court

order, particularly where there is an intention to allege contributory negligence. Insurers possess this data well in advance of any injured party.

AVs in the UK should comply with the Highway Code requirements, including giving way to crossing pedestrians and maintaining a safe and sufficient distance when passing cyclists and horse riders. In respect of modelling and evidence, we defer to the manufacturers, developers and programmers.

There is a real possibility of increased collisions rates following deployment of automated vehicles onto the roads alongside conventional vehicles and vulnerable road users in highly variable real-world settings. There must therefore be continuous review of automated vehicles and the respective safety standard, including annual reporting by the Secretary of State for Transport.

Whilst AV behaviour will differ to human drivers and road users, it is imperative that AV behaviour is not seen to be erratic or untrustworthy. Public confidence and engagement in owning and using AVs will be dependent on this. We continue to stress the importance of public education around AVs.

We fully support the appointment of the statutory inspectors to carry out no-blame safety investigations. These inspectors should be empowered to consider the safety standard and make recommendations to improve safety of AVs. It is vital that the inspectors are appropriately trained and resourced to effectively carry out their important role in the progress of automated driving in the UK. Insurers and manufactures with access to collision data should be required to share it with the inspectors.

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September 2025