



The Forum of Complex Injury Solicitors (FOCIS)

Response to

**The Department for Transport – Centre for Connected and Autonomous Vehicles
Automated passenger services (APS) permitting scheme consultation**

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

Introduction

FOCIS welcomes to opportunity to respond to the Department for Transport's APS Permitting Scheme consultation. 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. We therefore only respond below to questions within our remit.

Question 1: What guidance, if any, do you think government should provide to enable preliminary discussions between those wishing to apply for an APS permit and authorities?

Any guidance provided to applicants for a permit, as well as any information regarding the application process, should be transparent and publicly accessible. The guidance must be sufficiently clear and outline any duties and potential liabilities in clear language to ensure any operator is fully aware of its obligations.

A strict liability regime should apply to all AVs and APS vehicles. This is necessary to ensure public trust and confidence, as well as to provide an appropriate and straightforward means for injured victims of an AV or APS related accident to seek compensation. A failure to establish a strict liability regime will result in more complex and costly compensation claims, including a need to obtain specialist and expensive expert evidence. Injured victims of AV and/or APS related accidents should be able to access compensations without delay or risk of expensive proceedings. Any guidance in relation to liability should be in clear and unambiguous language and include guidance on liability in the scenario of a 'safety driver' intervening where autonomous driving is not possible.

Alongside a strict liability regime, APS permit holders must hold unlimited insurance for personal injury and death. This requirement would mirror the insurance requirements for conventional vehicles. This requirement should be made explicitly clear to all APS applicants, and the Motor Insurers Bureau should intervene in the scenario of an APS being operated without a permit or relevant insurance. There should be guidance on the criminal and civil consequences following the operation of an APS vehicle without a permit or relevant insurance. These are essential requirements for ensuring any injured party is not left without compensation.

The guidance should also require permit applicants to provide safety-related information to address the inevitable safety concerns the public, and in particular vulnerable road users, will have regarding APS given the lack of human interference and decision making. Safety-related information should include the following:

1. A safety case for each vehicle type and/or make and model for which a permit application has been submitted. The must include information on the reporting of collisions, the timescale for reporting collisions, testing evidence and the detection and negotiation of vulnerable road users (including users with visual impairment, hearing loss and those who fall within 204-225 of the Highway Code.¹

¹ [The Highway Code - Road users requiring extra care \(rules 204 to 225\).](#)

- a. Testing evidence should include independent test results, real-life scenario testing and testing based on current data and evidence of accidents involving public transport.
2. Evidence of an appropriate level of cybersecurity at a level at least as high as that required by the authorising body / Secretary of State. Guidance should include a process for the review of Cybersecurity arrangements by the Secretary of State.
3. Confirmation as to and evidence of the frequent software reviews and updates to ensure APS have the most up to date safety features. Software should also be frequently updates to reflect changes in the law and or changes to maps or road layout.
4. Confirmation as to how information and/or evidence of a standard of driving below that of a 'competent and careful' human driver will be captured and shared with the permitting authority.²
5. Confirmation as to how information and/or evidence of any outcomes in the pre-deployment testing phase which could or did lead to harm to passengers or other road users will be captured and provided to the permitting authority.
6. Confirmation regarding accessing the vehicle when boarding or alighting. Accessibility must cater for the needs of vulnerable users and disabled passengers, including those with mental or sensory impairment.
7. Processes for the ongoing monitoring and assessment of the APS' safety post-deployment. In the period post-deployment, a low threshold for inspection by the permitting authority must be established for all incidents, including all 'near miss' events. After this, APS should continue to be regularly monitored and assessed in relation to safety. We recommend this review to take place annually, or sooner should it be required to keep pace with technological development.
8. The method and timeline for intervention and investigation by the permitting authority following any safety-related traffic infringement or failure to abide by the Highway Code rules 204 – 225 and the relevant consequences for breach.
9. The legal framework and consequences for interference with the internal or external infrastructure, mechanics or software required for the operation of an APS vehicle.

² [FOCIS Response to Department of Transport CCAV – Automated Vehicles: statement of safety principles consultation, September 2025](#): A 'careful and competent' human driver refers to the statutory minimum safety level that the Statement of Safety Principles for Automated Vehicles should aim to achieve pursuant to the [Automated Vehicles Act 2024](#). This standard is higher than that of an average human driver, which is appropriate and necessary in relation to autonomous driving.

Question 2: in your view, should we support any coordination, information sharing and best practice sharing between authorities?

Yes.

Any coordination, information sharing and best practice sharing between authorities should be fully supported and appropriate systems should be in place to promote this. Safety requirements and systems which provide very high standards of protection for vulnerable road users should remain standardised across all passenger service types. Coordination and information sharing between authorities will both promote and ensure best practice across the sector, whilst also providing a larger data set from which issues and trends can be analysed and appropriate action taken. Regular reviews of this data should be compulsory and such data should be publicly accessible in order to support public trust.

We fully support the Commission's proposal to create the Road Safety Investigation Branch. This new authority should be created akin to the Air Accident Investigation Branch (AAIB) and Marine equivalent (MAIB), with an obligation to independently investigate and report on all accidents or "near miss" incidents involving automated passenger services. This will ensure lessons are learned throughout the industry, with recommendations made to protect the safety of passengers and other road users.

Question 6: what information would you expect to see published by permit holders on the safeguarding of passengers?

Regarding the safeguarding of passengers, the following information should be published by permit holders:

1. Details of when and by whom a permit was obtained.
2. Details of where a passenger could find the safety case for the authorising body.
3. Confirmation that the APS service has passed all required safety tests and is subject to ongoing safety review and oversight by an investigative body in the event of any incidents.
4. Confirming in clear language that strict liability for incidents applies and that, unless the accident is caused solely by the passenger, they will be able to claim compensation from the permit holder.
5. Confirmation in clear language that the permit holder holds valid insurance, which is unlimited for personal injury and death.
6. Information that demonstrates the permit holder meets industry standards, is in good financial health and has appropriate supervision and oversight systems in place for the running of an APS service.
7. Details of how an accident / breakdown will be managed and by whom, including provision of contact details for passengers.
8. Confirmation that staff involved in maintenance and/or operation of the service are suitably trained and qualified.

Question 7: what information would you expect to see published by permit holders on how the service was meeting the needs of older and disabled people?

Regarding meeting the needs of vulnerable users, permit holders should be required to publish:

1. How vulnerable users can request assistance and communicate with the vehicle, both on arrival and when using the vehicle, i.e via using an app.
2. How vulnerable users can communicate with the vehicle and operators regarding stopping the vehicle, in both ordinary and emergency scenarios.
3. Safety features available to vulnerable users during boarding, transit and disembarking the vehicle. This includes how vulnerable users will be assisted during boarding and disembarking, and the availability of both human and remote assistance. Permit holders must be able to provide such assistance as required so as to ensure accessibility and equality in the use of their services.
4. As per our response at Question 11, information confirming that any employee assisting and coming into contact with vulnerable users have undergone high thresholds of training, meet employee competencies and have undergone criminal record and medical checks equivalent to those required by taxi and PHV drivers.

Question 10: what information do you think would be useful to include in any guidance to support discussions between APS permit applicants and emergency services and traffic authorities?

We agree with the proposals in the consultation paper that any permit applicants and relevant authorities should include information about the impact of the services on congestion and traffic flow, how their vehicles will respond to emergency vehicles and situations and how emergency services and other officials can engaged with the vehicle and/or applicant.

Applicants must also be required to include information regarding how the applicant and/or vehicles will respond to serious collisions, including the reporting of incidents to emergency services and traffic authorities, live location sharing with the authorities during such incidents, and who has responsibility for any reporting as required. Any remote operator and supervisors must also be able to report incidents to the authorities. Applicants should also be required to include information on the availability of emergency refuge bays to ensure that any APS vehicle can be safely removed from live traffic.

Question 11: do you agree or disagree that safety drivers or passenger assistants should be subject to the same criminal record checks and medical standards as taxis and PHV drivers and why?

Agree.

As well as strict employee competencies, passenger facing staff must be subject to the same criminal record checks and medical standards as taxis and PHV drivers. These checks must be compulsory for both safety drivers and passenger assistants as an employee in either role may be required to take control of the ASP or assist vulnerable service users, including children. Remote operators, or any other role which may involve taking control of an ASP service or interacting with service users, must also be subject to the same check. These checks are essential for public trust in utilising ASP vehicles.

Question 18: do you agree or disagree with our proposed approach to vary, suspended or withdraw an APS permit?

Agree – see Question 20 below for additional points.

Question 19: do you agree or disagree that in ordinary cases, the Secretary of State for Transport should give the APS permit holder and consenting authority notice of an intention to vary a permit and invite representations?

Agree.

In ordinary cases, APS permit holders and consenting authorities should be given notice and invited to make representations where there is an intention to vary a permit. However, this should be dependent on the severity on an incident/incidents; where the safety of a passenger is involved, or there is any risk of personal injury, the requirement for notice to be given should be waived. In any regulations or subsequent guidance, any scenario in which there is actual or a significant risk (including 'near miss' incidents) of injury or death, APS permit holders should be liable to immediate suspension and review by the Secretary of State should be considered urgent.

High thresholds in the case of actual or a serious risk of injury or death are essential for creating and maintaining public trust in AVs and APS permitted vehicles.

Question 20: do you agree or disagree that in urgent cases, the Secretary of State for Transport may suspend or make a temporary variation to an APS permit first, and then invite representations?

Agree.

In urgent cases, the Secretary of State should be able to immediately suspend or temporarily vary any APS permit where there is any serious safety concern to any passenger or road user and then invite representations following suspension of temporary variation. The threshold for such instances should be clear and comprehensive and include scenarios where there has been or continues to be a risk of injury to either a passenger or other road user. The powers should extend to an ability to suspend permits for all vehicles of the same model or fleet.

Question 22: do you agree or disagree with our proposed approach to information sharing?

The approach to information sharing is pragmatic and sensible in its proposed form.

Bus open data

We agree with the proposal that operators of bus-like services should be required to share open data in a manner which mirrors the data-sharing obligations under the Bus Services Act 2017. If the open data is to be shared via an app, the app must be reliable and provide reliable data on timetables, fares and bus locations to ensure successful public uptake and uphold public trust.

PSV operators

PSV operators must currently report 'any failure or damage of a nature calculated to affect the safety of occupants' to the Secretary of State for Transport under s.20 of the Public Passenger Vehicles Act 1981. This duty must be retained for APS vehicles. The DVSA guidance, which required PSV operators to report fatalities, series injuries and other safety related incidents should also be extended to include APS vehicles.

We also agree with the proposal that an APS permit holder will likely be "required to report, at least, any failure or damage affecting safety to the Secretary of State for Transport (acting through DVAS – no matter the service type". The proposal that this duty be extended to include a requirement to report any 'failures affecting the safety of all road users and any collision, rather than just those that require the vehicle to be taken out of service' should also be incorporated and any such data be made publicly accessible.

Incident data

We fully support the intention for the proposed legislation to provide a way in which accident information can be shared with police and enable the police to be able to request any information or documents from the permit holder. Any such information should also be made available the Road Safety Investigation Branch and details on incidents causing injury or death should also be available to any injured party and their legal representatives.

Any threshold for the publication of information regarding safety-related incidents should be low to enable a culture of transparency and public trust in using APS vehicles. The public should also be in full knowledge of any associated risks in order to properly consent to using APS vehicles.

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