

Department for Transport

Developing the Automated Vehicles Regulatory Framework

A response by the Association of Personal Injury Lawyers

March 2026



Introduction

APIL welcomes the opportunity to respond to the Department for Transport's call for evidence on developing the automated vehicles regulatory framework.

We have provided comments below on the framework's proposals relevant from the perspective of personal injury lawyers and ensuring that injured people can access justice.

APIL's longstanding position is that automated vehicles will improve road safety in the longer term, given that several studies indicate that driver error is the primary cause of road collisions in the UK. Our main concern with the current legislation is that the strict liability regime introduced in the Automated and Electric Vehicle Act 2018 (AEVA) is not broad enough to ensure that injured people have a proportionate route to redress. As currently worded, this provision will only be available for vehicles being driven fully autonomously, which would create difficulties for injured claimants in establishing liability, given that the burden of proof lies with the claimant and they have no way to establish whether the vehicle was being driven in autonomous mode at the time. APIL remains disappointed that our concerns over this have not been heeded previously. The data retention proposals in the call for evidence have the potential to address the uncertainty regarding liability in the AEVA, if the framework introduces a duty for disclosure of relevant collision data to the claimant or their solicitor.

Requirements for Data Retention

APIL agrees with the duty on those controlling automated vehicle (AV) data to disclose data to insurers, however we believe that there should also be a duty to disclose the data to the claimant or their lawyer to ensure access to information is fair from the outset. The duty should also clarify that if the data is not disclosed, the vehicle should be deemed to be being driven autonomously, and the strict liability of the AEVA should apply. We believe this would avoid the uncertainty the legislation has created as to whether strict liability for autonomous vehicles applies. This right of access to data for injured people should be a statutory right, and it should not be limited to insurers or regulators.

Regarding the proposed 39-month retention period, we have concerns that this might be detrimental to claimants. Data which has a bearing on any incident which may give rise to a claim should be specifically protected and preserved until any legal proceedings relating to that collision have resolved. Often, there are delays in bringing a claim, and it would be unjust for data to be wiped the day after proceedings have been issued (given that limitation is usually 3 years). In addition, the limitation period is longer for cases involving children or those who lack capacity. Therefore, by the time they are able to bring a claim, the data may have already been wiped. This will cause problems in terms of liability and will force claimants to attempt to prove that the automated driving system (ADS) was engaged at the

time of the collision. Without the data showing when the ADS was activated/deactivated, it would be extremely challenging to prove a claim. In order not to disadvantage a claimant in bringing a road traffic collision claim, it is important that the crucial data around the time of the collision is available/accessible. We suggest that the relevant vehicle data, including data immediately prior to the collision and during the collision, could be uploaded to a network or cloud for ease of storage.

Authorisation

We maintain that the authorisation process and the safety principles required by the Automated Vehicles Act 2024 should be based on clear and objective metrics. A data-driven assessment would be more effective and objective to determine if any use of automation reduces or increases casualty rates and avoids the uncertainty of human interpretation. We believe the rate of incidents resulting in injury per number of miles driven is a key metric that should be used to measure the safety of AVs.

Once the vehicles are authorised and on the roads, the In-Use Regulatory Scheme (IURS) assessments should also analyse data and determine whether AVs deliver better outcomes for vulnerable road users than human drivers. Vulnerable road users, such as pedestrians and cyclists, need to be safeguarded against the possible risks of automation, particularly in urban environments where there will be co-existence between non-automated and automated vehicles.

Transition Demands

We believe the transition time should be stated in secondary legislation to ensure a consistent standard for transition demand interfaces across different vehicle makes and models. We support the proposed 10-second handover time in line with UNECE Regulation 157. During the transition period, we suggest that liability rests with the automated self-driving entity until safe handover is confirmed, as handover issues are likely to become a key risk for collisions and litigation. This would introduce certainty around handovers and have a beneficial impact on liability for injured people, given the requirement to prove whether the vehicle was being driven autonomously, as introduced by the AEVA.

Once AVs are on the road

We note that no-blame investigations will be part of the regulatory scheme that will apply to AVs. We support this as we believe an independent, learning-focused incident investigation function, modelled on air/rail/marine branches, will be key to understanding the root causes of safety issues and improving safety.

We suggest that the factual findings and reports resulting from no-blame investigations are disclosable or admissible in civil proceedings to help establish what happened. There should be statutory controls on the use of litigation privilege to ensure justice, with a default disclosure of all investigations of incidents to ensure transparency.

Insurance

We suggest that new insurance products (including fleet/remote operation covers for NUICOs and ASDEs) must demonstrably guarantee payout capacity to cover all compensation claims in case they fall outside the motor insurer's scope. This is particularly important given that the Government and the MIB have not yet agreed on the route for compensation for uninsured AV drivers. It is important to ensure that there is no insurance and compensation gap between AVs and other vehicles.

Any questions in the first instance should be addressed to Ana Ramos, legal policy officer at ana.ramos@apil.org.uk