Department for Transport

Centre for Connected and Autonomous Vehicles

Automated vehicles: statement of safety principles consultation

A response by the Association of Personal Injury Lawyers (APIL)

Introduction

APIL welcomes the opportunity to respond to the Department for Transport's and Centre for Connected and Autonomous Vehicles' consultation on the draft Statement of Safety Principles.

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. While we broadly agree with the draft Statement, we believe it could be strengthened, particularly through the inclusion of data-based measurement of risk, and enhanced protections for vulnerable road users to ensure that automation actually improves road safety. It is key that the post-deployment annual evaluations are adequate and robust, based on objective data metrics and investigation of incidents and near misses.

We have also provided comments on the risks and benefits of automation and the proposed legal framework from the perspective of personal injury lawyers, with a focus on ensuring that injured people can access justice.

Questions

Question 1: Do you agree or disagree with the purpose of the statement of safety principles being to provide guidance to the Secretary of State in considering the self-driving test?

Agree but there is a potential risk that the application of the principles could become subjective, notwithstanding the apparently objective nature of the principles themselves. This could occur where the assessment depends upon an underlying assumption about how a careful and competent human driver would be expected to behave, and that assumption is not supported by the available empirical safety data.

For example, an automated vehicle might be involved in a particular type of collision at a rate substantially lower than that experienced by human drivers, including careful and competent human drivers. An assessor might nevertheless conclude that the vehicle had failed the principle requiring it to predict, detect and respond proactively to hazards because the assessor assumes that a careful and competent human driver would have avoided the particular collision.

If the available safety evidence demonstrates that careful and competent human drivers do in fact experience such collisions at a measurable rate, the conclusion would depend upon an assumption rather than the empirical evidence. The application of the principle would therefore produce a conclusion which was inconsistent with the actual comparative safety data.

This illustrates the importance of distinguishing between (1) the principle itself, (2) the factual assumptions made in applying the principle, and (3) the empirical evidence supporting those

assumptions. A safety assessment should not be capable of treating an automated vehicle as failing to meet the required standard merely because an assessor adopts an idealised conception of careful and competent human driving which is not supported by the observed safety performance of careful and competent human drivers.

Accordingly, where a principle is applied by reference to human driving performance, any material assumptions concerning the expected performance of a careful and competent driver should themselves be evidence-based, transparent and capable of objective verification. Otherwise, a principle intended to provide an objective safety standard could produce a subjective assessment which is contrary to the underlying safety evidence.

The principles must therefore be applied in a context of objective/empirical data and avoiding distortion by underlying assumptions.

Question 2: Why do you think this? If relevant, what alternatives would you prefer?

APIL agrees that the statement of safety principles should provide guidance to the Secretary of State at authorisation stage and following deployment when assessing the vehicles' annual performance. However, we believe that the draft statement could be strengthened, particularly in relation to the objective/empirical data-based measurement of risk and the protection of vulnerable road users to ensure that automation actually improves road safety. It is key that the post-deployment annual evaluations are adequate and robust, based on objective data metrics and investigation of incidents and near misses.

Question 3: Do you agree or disagree with the safety standard for automated vehicles being set at equivalent to careful and competent human drivers?

Disagree.

Question 4: Why do you think this? If relevant, what alternatives would you prefer?

APIL's position since the safety standard was first considered has been that the most appropriate benchmark is "overall, safer than the average human driver". The primary objective of deploying self-driving vehicles should be to significantly improve road safety. We believe that the standard should be more ambitious, as maintaining the status quo will not realise the full potential benefits that automation can bring. We acknowledge that there are benefits other than improved safety (such as facilitating independent car travel for disabled persons who are unable to drive themselves). However, there should still be room for a significant improvement in road safety in any implementation of automated vehicles.

We maintain that setting a higher standard for self-driving vehicles would help demonstrate to the public, who will initially be cautious of the safety of automation, that self-driving vehicles can deliver meaningful improvements and reduce the number of people killed and seriously injured.

While the concept of a careful and competent driver is a well-established legal standard, it is opaque and subjective and should not be applied without underpinning of objective/empirical safety data to avoid distortion by underlying assumptions. Evidence from studies on road violence show that most drivers overestimate their competence and do not perceive rules

framed around a “competent and careful driver” as applying to them, limiting deterrent impact.[1]

We believe that automated vehicles should be expected to perform more safely than a careful and competent driver. We recognise that consistency and international alignment will be important initially for the deployment of vehicles. However, we believe that the UK should aim higher given its resources and strong road safety record. International alignment should be treated as a minimum standard, not the ceiling. The UK has the opportunity and capability to set a higher safety benchmark, particularly if the government wishes to position the UK as a leader in AI and transport innovation.

Question 5: Do you agree or disagree with using behaviours as the basis for developing the principles within the statement of safety principles?

Agree, subject to the points in our response to question 1 above about the need for objective/empirical data to avoid the principles applying subjectively and wrongly.

Question 6: Why do you think this? If relevant, what alternatives would you prefer?

We agree that behaviours are a useful basis for developing the principles. However, we believe that behavioural requirements need to be supported by clear data metrics. A data-driven assessment would be a more effective and objective way to determine whether automation reduces or increases casualty rates and to avoid the ambiguity 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.

Relevant metrics should include not only killed and seriously injured casualty data, but also wider indicators of risk and safety performance, such as near misses, emergency braking, evasive manoeuvres, speed limit compliance, appropriate speed for conditions, close passing of cyclists, stopping in cycle boxes or advanced stop lines, and compliance at junctions and crossings. As this data will be readily available to operators of automated vehicles, the burden of collating and analysing it should be minimal and proportional to the objectives of improved road safety. The annual monitoring post-deployment should also measure road users’ perceived safety. The deployment of automated vehicles must be aligned with policies promoting active travel through cycling and walking and should not negatively impact the perceived safety of vulnerable road users.

Question 7: Do you agree or disagree with the identified behaviours of vehicle control, hazard anticipation, perception and reaction, obeying traffic rules, interaction with other road users, and adaptability to road conditions?

Question 8: Why do you think this?

We broadly agree with the identified behaviours. We suggest that “interaction with other road users” should be defined to explicitly improve safety for vulnerable road users. Alternatively, there could be two separate behaviours, one focused on interaction with other vehicles and

[1] Kyd, Sally; University of Leicester Institute for Policy (2026). Legal Responses to Road Violence. University of Leicester. Report. https://doi.org/10.25392/leicester.data.33049415.v1

the other focused on interaction with vulnerable road users, given that they are more exposed to risk and more likely to suffer serious injuries.

Question 9: In your view, what, if any, other behaviours do you think are missing and why?

a) Avoidance of unnecessary risk-taking
b) Appropriate risk calibration
c) Avoidance of unnecessary abrupt manoeuvres
d) Predictability to other road users
e) Courtesy and cooperation
f) Knowing when not to exercise an available capability

Question 10: Do you agree or disagree that the proposed principles on improving road safety for all and interacting safely with other road users provide sufficient protection for all road users?

Disagree.

Question 11: Why do you think this? If relevant, what alternatives would you prefer?

APIL believes that the wording of Principles 6 and 7 should be made stronger. Principle 6 in particular refers to avoiding "disproportionate increase in risk". In our view that wording is too permissive as it appears to allow an increase in risk, provided that it is not disproportionate. We do not agree that any increase in risk to all road users, but especially vulnerable road users should be acceptable.

Regarding Principle 7, we disagree with the word "considerate". We believe the wording should explicitly require autonomous vehicles to reduce the risk of harm for pedestrians, cyclists, horse riders, motorcyclists, children, older adults, and disabled people who are at greater risk. The principle should be supported by measurable behaviour requirements, including safe passing distances, not obstructing cycle lanes or advanced stop lines, and safe interaction at crossroads and junctions.

Question 12: Do you agree or disagree with the inclusion of Principle 1: self-driving vehicles should use the road in accordance with traffic laws and the Highway Code?

Agree except where a proportionate departure is necessary to avoid or mitigate an immediate or reasonably foreseeable danger.

Question 13: Do you agree or disagree with the inclusion of Principle 2: self-driving vehicles should maintain control over the vehicle at all times?

Agree.

Question 14: Do you agree or disagree with the inclusion of Principle 3: self-driving vehicles should predict, detect, and respond to hazards proactively?

Agree.

Question 15: Do you agree or disagree with the inclusion of Principle 4: self-driving vehicles should adapt driving to road and weather conditions?

Agree.

Question 16: Do you agree or disagree with the inclusion of Principle 5: self-driving vehicles should behave in a predictable manner?

Agree.

Question 17: Do you agree or disagree with the inclusion of Principle 6: self-driving vehicles should improve road safety in Great Britain for all?

Agree.

Question 18: Do you agree or disagree with the inclusion of Principle 7: self-driving vehicles should interact safely with all road users, particularly those most at risk?

Agree.

Question 19: Do you agree or disagree with the inclusion of Principle 8: self-driving vehicles should interact safely with emergency services?

Agree.

Question 20: Do you agree or disagree with the inclusion of Principle 9: self-driving vehicles should only operate autonomously within the limits under which they are specifically designed to function?

Agree.

Question 21: Do you agree or disagree with the inclusion of Principle 10: self-driving vehicles should be designed to take account of the specificities of the territory where they will operate?

Agree.

Question 22: Do you have any comments, including textual amendments, on Principle 1?

We support the requirement for compliance with road traffic law and the Highway Code subject to the point above in our response to question 12. Strict compliance could cause a collision in certain circumstances. Road traffic rules contain provisions requiring contextual judgment and unavoidable emergency situations need to be addressed in AV behaviour.

As part of compliance with the Highway Code, we believe the hierarchy of road users is a key consideration. Vehicles that can cause more harm have a bigger responsibility to take care and reduce the danger they could pose to vulnerable road users.

Evaluating the performance of vehicles and identifying recurrent faults in certain models' post-deployment is key to the prevention of injuries. There must be an effective mechanism to deal with AVs that fail to comply with existing traffic laws, as well as a statutory method for raising traffic infractions with the manufacturers of the AV in question so that issues can be swiftly rectified.

Question 23: Do you have any comments, including textual amendments, on Principle 2?

We have reservations with the use of "at all times". There might be circumstances where it is safer for a remote operator to intervene and take control of the vehicle.

Question 24: Do you have any comments, including textual amendments, on Principle 3?

We support Principle 3. However, we would suggest that the wording should go further and include a focus on whether the vehicle's response to hazards minimises the risk of harm.

Question 25: Do you have any comments, including textual amendments, on Principle 4?

We support Principle 4. Compliance with speed limits should not be treated as sufficient in itself – automated vehicles should travel at an appropriate speed for the road, conditions, and surrounding road users, even where the legal speed limit would permit a higher speed.

Question 26: Do you have any comments, including textual amendments, on Principle 5?

APIL supports Principle 5. It is key that interaction and communication with other road users is clear and understandable.

Question 27: Do you have any comments, including textual amendments, on Principle 6?

Question 28: Do you have any comments, including textual amendments, on Principle 7?

Please see our response to question 11.

Question 29: Do you have any comments, including textual amendments, on Principle 8?

APIL supports Principle 8.

Question 30: Do you have any comments, including textual amendments, on Principle 9?

We agree with the inclusion of Principle 9. We believe that operational limits defined by manufacturers and operators should be subject to robust oversight to ensure that they are appropriate to the capabilities of the vehicle and are independently assessed at authorisation and post-deployment.

Question 31: Do you have any comments, including textual amendments, on Principle 10?

It is unclear whether “specificities of the territory” refers to national differences, local driving behaviours and skill, or different road types.

If the principle is intended to allow for different safety thresholds based on the behaviours of other human drivers in the area, we disagree with this proposal. The safety standard for automated vehicles should be harmonised rather than benchmarked against poorer local driving behaviour.

If the principle instead is intended to recognise that automated vehicles should adapt to different road characteristics, we suggest that testing should be comprehensive and test the vehicle’s behaviour in different road conditions and characteristics. Some key examples include urban and rural roads where the interaction with vulnerable road users is more frequent, temporary road works, and complex junctions and crossroads.

Question 32: In your view, should any currently excluded areas be included in the statement of safety principles?

Question 33: Which areas should be included? Why do you think they should be included?

We consider that managing risks to passenger safety and learning from incidents should be included. It is important that detailed investigations are carried out following an incident, regardless of whether it resulted in harm. Following investigations, the operation of that particular vehicle model should be reviewed to ensure that a similar failing will not occur. Ensuring that incident investigations are thorough and that learning from incidents is shared and applied will improve public confidence and the actual impact of automated vehicles on road safety. Linked to this, transparency will be important to improve public confidence. We suggest that factual findings and reports resulting from no-blame investigations should be 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 default disclosure of all investigations of incidents to ensure transparency. This would help claims to be resolved more efficiently, reduce costs, and enable injured people to obtain compensation more quickly to support their recovery and rehabilitation.

Regarding managing risks to passenger safety, we believe that automated vehicles should be required to respond proportionately to circumstances where the passenger is most at risk. Passenger safety will remain relevant to road traffic claims and the use of a seatbelt, for example, is a relevant consideration for litigation purposes. There could be a requirement that the vehicle does not operate if, for example, the passenger is not wearing a seatbelt, or other passenger safety measures are not in place.

We also suggest that there should be an overarching responsibility to manage risks to road users outside the vehicle, particularly in urban areas. As mentioned throughout our response, we believe that ay increased risk on vulnerable road users is unacceptable. The hierarchy of road users is a key consideration for any principles of safety and assessment of risk post-deployment.

Question 34: In your view, what costs should be taken into consideration when assessing the impact of the statement of safety principles?

We are only responding to this question from the perspective of human costs. We believe the key considerations mentioned throughout our response regarding reduction of injury and death are essential to the successful implementation of automated vehicles. The societal cost of injury and death, as well as the cost to injured people and their families, needs to be considered. Data collection and analysis will play a fundamental role in evaluating whether automation is improving safety and reducing harm.

As mentioned above, automation should not have a negative impact on the perception of safety of vulnerable road users and public policies that promote cycling and walking.

A key consideration for APIL is whether the laws in place ensure that those who are injured in a collision get the redress they need quickly, simply, fairly and at proportionate cost. We maintain our concerns with the liability regime established in the Automated and Electric Vehicles Act 2018 (AEVA). The AEVA introduces strict liability in certain circumstances, meaning that a person who has been injured as a result of a collision with an automated vehicle can recover their losses from the motor insurer without needing to prove fault on the part of the driver. However, 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. We believe the provisions under section 2 of the AEVA should be extended to cover all vehicles with automated features, regardless of whether they were operating autonomously at the time of the collision. The requirement in the current law for the claimant to prove that the automated vehicle was being driven in autonomous mode is unjustified and disproportionate.

The provisions in section 2 of the AEVA will create new legal issues and disputes in practice regarding whether strict liability applies or whether the vehicle was not being driven autonomously at the time of the collision. If these problems are not addressed, there will be a huge impact on the rights of individuals claiming compensation for their injuries where they are involved in a road traffic collision that is not their fault. APIL is concerned that, in the future, a large number of claimants who have sustained serious and/or life-changing injuries will not be able to access compensation if the liability provisions are not amended. These claimants may instead be forced to pursue complex and costly product liability claims under the Consumer Protection Act 1987, which would often not be viable due to their extremely high costs. This would undermine access to justice.

Question 35: In your view, what benefits should be taken into consideration when assessing the impact of the statement of safety principles?

The principal benefit to be assessed should be whether automated vehicles significantly improve road safety by a direct reduction in death and serious injury. We believe that maintaining the current status quo on the safety standard is not enough. Automated vehicles should deliver a demonstrable safety benefit, otherwise it is difficult to justify the wider disruption and public confidence issues associated with deployment. Other benefits that should be assessed include facilitating independent car travel for disabled persons who are unable to drive themselves

Question 36: Do you have any other comments?

We would like to take this opportunity to share wider concerns regarding the automated vehicles framework.

Data access and disclosure

APIL agrees with the duty proposed in the automated vehicles framework[2] on those controlling automated vehicle's 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 have been 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[3], we have concerns that this might be detrimental to claimants. 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 three years). In addition, the limitation period is longer for cases involving children or those who lack capacity. Therefore, by the time claimants 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 or deactivated, it would be extremely challenging to prove a claim. To avoid disadvantaging a claimant in bringing a road traffic collision claim, it is important that the crucial data around the time of the collision is available and accessible.

Data that 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 concluded. Relevant vehicle data, including data recorded immediately before, during or after the collision, should be retained in a secure electronic format, for example uploaded to a network or cloud-based storage system to facilitate long-term retention. Given the relatively low cost of electronic storage this would reduce the cost burden while facilitating access to

[2] https://assets.publishing.service.gov.uk/media/693978b77a605b2d61cd9069/developing-the-automated-vehicles-regulatory-framework-cfe.PDF page 32
[3] https://assets.publishing.service.gov.uk/media/693978b77a605b2d61cd9069/developing-the-automated-vehicles-regulatory-framework-cfe.PDF page 33

justice. We propose that relevant collision data should be retained at least until any legal proceedings have concluded or for 21 years to ensure that children and other vulnerable claimants are not deprived of access to evidence that may be critical to establishing liability and pursuing a claim.

Any queries in relation to this response should be directed, in the first instance, to Ana Ramos at ana.ramos@apil.org.uk