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# **Automated Vehicles: Background papers**

These are the background papers to our joint report (LC Report No 404 / SLC Report No 258). Background Paper A updates and replaces Background Paper 1, which we originally published in in November 2018 for our first joint preliminary consultation paper (LCCP No 240/SLCDP No 166)

The report is available on our websites at <https://www.lawcom.gov.uk/project/automated-vehicles/> and <https://www.scotlawcom.gov.uk/publications>.

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# Background paper A: Who is liable for road traffic offences?

1.1 The process of driving and using a motor vehicle is the subject of a wide variety of criminal offences. We have identified 81 road traffic offences which we consider under eight headings, depending on whether the offence relates to:

- (1) the condition of the driver;
- (2) the condition of a vehicle;
- (3) the way the vehicle is driven;
- (4) where a vehicle is driven;
- (5) where a vehicle is left;
- (6) conduct following an accident;
- (7) safety (including seat belts and secondary activities); or
- (8) loading.

1.2 Here we consider who is liable for these offences under the current law. We are particularly interested in how the offences might apply to automated vehicles (AVs) in the absence of legislative reform. We first published this paper alongside Consultation Paper 1 and have extended and updated it in the course of the project. We publish it now to inform discussion about the way that our reforms might be implemented.

1.3 The offences are listed in the accompanying table. This table does not contain every offence. As this project is focused on passenger vehicles, we have not included offences which apply only to agricultural or commercial vehicles, such as those relating to drivers' hours. Nor have we included local bylaws.<sup>1</sup> To avoid unnecessary repetition, we have also omitted offences relating to specific types of pedestrian crossing or specific speed limit zones. However, the table does contain all the offences listed in the Magistrates' Court Sentencing Guidelines, which are the most commonly committed road traffic offences in England and Wales.

## A VARIETY OF PEOPLE SUBJECT TO DUTIES

1.4 Under current law, while many road traffic offences apply only to drivers, others apply more widely.<sup>2</sup> The legislation uses a variety of labels to identify the person who is primarily liable for an offence, including those "in charge of a vehicle", "using a vehicle", "driving a vehicle" and in some cases "propelling" a vehicle or "using a motorway". To

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<sup>1</sup> Bylaws are laws that only apply in a particular locality and are usually made by municipal authorities.

<sup>2</sup> We discuss the concept of driving in paragraphs 2.60 to 2.67 of Consultation Paper 1, where we note slight differences in the judicial approaches between England and Wales, and Scotland.

add to this complexity, it may also be an offence to “cause or permit” another person to commit an offence. In addition, the legislation imposes some liabilities on “owners” and “registered keepers”.

- 1.5 It appears that a driver is always a “user” and is always “in charge of” a vehicle. However, the concept of a user may be wider than just the driver. The concept of “using” a vehicle is a flexible one, which involves “an element of controlling, managing or operating the vehicle at the relevant time”.<sup>3</sup> Using a vehicle in prohibited circumstances is a strict liability offence,<sup>4</sup> while “causing or permitting” involves *mens rea* (a “guilty mind”, an expression used to describe the required mental element of a criminal offence).<sup>5</sup>
- 1.6 In practice, whatever the statutory language, the courts have a strong tendency to see responsibilities as resting on a driver – that is, a person who sits behind a steering wheel and operates the controls. There are relatively few cases which discuss other ways of using or being in charge of a vehicle.
- 1.7 The terms used to describe liability for the offence may sometimes appear arbitrary. For example, the requirement to comply with road traffic signs under section 36 of the Road Traffic Act 1988 is only on the person driving or propelling a vehicle. By contrast, section 5(1) of the Road Traffic Regulation Act 1984 imposes liability for contravening a traffic regulation order<sup>6</sup> on “a person who contravenes” the order or who “uses a vehicle in contravention” of the order. In other words, only a driver is liable for going through a red light, but a user may be liable for going the wrong way down a one-way street.
- 1.8 Similar words are not always used consistently. *Wilkinson’s Road Traffic Offences* puts this in the following terms:

One may obtain some help from cases in which the construction of similar words in other statutes has had to be considered, but particular care must be taken. The truth of this dictum is particularly apparent when one has to consider the meaning of the phrases “to cause”, “to permit” and “to use”.<sup>7</sup> Not only has one to construe words in the context of the statute in which they appear but one may have to consider the mischief which the statutory provision is aimed at preventing.<sup>8</sup>

- 1.9 For these reasons, it is not possible to redefine existing terms such as “driver” or “user” in the context of automated vehicles without looking at the policy behind each provision.

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<sup>3</sup> See *Brown v Roberts* [1965] 1 QB 1 at p 15A to B, discussed below at para 1.35.

<sup>4</sup> An offence for which the person doing the prohibited act is liable, irrespective of fault.

<sup>5</sup> K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson’s Road Traffic Offences* (28th ed 2017), para 1.161.

<sup>6</sup> Road Traffic Regulation Act 1984, s 2.

<sup>7</sup> Edmund Davies LJ in *Sopp v Long* [1970] 1 QB 518 at p 524.

<sup>8</sup> K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson’s Road Traffic Offences* (28th ed 2017), para 1.161.

Given the various policy goals behind different offences, there is not necessarily a one-size-fits-all solution.

## OFFENCES RELATED TO THE CONDITION OF THE DRIVER

1.10 These offences cover driving under the influence of drink or drugs, driving without the appropriate licence and driving while disqualified.<sup>9</sup> There are also two offences relating to driving with a disability:

- (1) driving with eyesight which fails to comply with the prescribed requirements;<sup>10</sup> and
- (2) driving with a licence which was obtained on the basis of a declaration regarding a disability which the driver “knew to be false”.<sup>11</sup>

### Offences while “in charge” of a vehicle

1.11 The majority of the offences relating to a person’s condition apply only to those who are found to be driving. However, three offences apply more widely, to those “in charge” of a vehicle. Under section 4(2) of the Road Traffic Act 1988:

a person who, when in charge of a mechanically propelled vehicle which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.

1.12 Similarly, under section 5(1) of the Road Traffic Act 1988:

If a person—

... (b) is in charge of a motor vehicle on a road or other public place,

after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit he is guilty of an offence.

1.13 Thirdly, section 5A of the Road Traffic Act 1988 applies to a person (D) who is in charge of a motor vehicle (D) if “the proportion of the drug in D’s blood or urine exceeds the specified limit for that drug”.<sup>12</sup>

1.14 The term “in charge of a vehicle” is not statutorily defined and has been interpreted as a matter of fact and degree. In *DPP v Watkins*, the meaning of “in charge” was said to fall into two broad categories:

- (1) If the defendant was the owner or lawful possessor, or had recently driven the vehicle, he would be “in charge” and the question would be whether he was still in charge or whether he had relinquished his charge.

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<sup>9</sup> For further details of these offences, see the table accompanying this background paper.

<sup>10</sup> Road Traffic Act 1988, s 96.

<sup>11</sup> Road Traffic Act 1988, s 92(10).

<sup>12</sup> Road Traffic Act 1988, s5A(2). The section was added in 2015 for England and Wales and 2018 in Scotland.

- (2) If the defendant was not the owner, lawful possessor or recent driver, but was sitting in the vehicle or otherwise involved with it, the question for the court was whether he had assumed charge of it.<sup>13</sup>

1.15 In *DPP v Watkins*, Lord Justice Taylor identified other relevant factors, including whether the defendant:

- (1) was in possession of a key that fitted the ignition; or
- (2) showed an intention to take or assert control of the car by driving.<sup>14</sup>

1.16 The concept of being “in charge of a motor vehicle” is flexible and broad. Although its scope has never been tested in a world of advanced driving automation, it would appear to include anyone in a vehicle who has put themselves in position to take over from an automated driving system. Similarly, it would cover anyone who had been driving and who had not yet fully “relinquished their charge” when the automated system took over. We therefore think that these offences would already cover a “user-in-charge”,<sup>15</sup> though it would be helpful to make this clearer.

### Offences which apply only to driving

1.17 By contrast, four offences related to the driver’s condition apply only to drivers. These are driving without a licence, driving while disqualified, driving with poor eyesight, or driving with a licence obtained following a false declaration as to any relevant disability. For these offences, under the current law, the prosecution would need to present evidence that the accused was “driving”, rather than that the vehicle was “driving itself”.<sup>16</sup>

## OFFENCES RELATED TO THE CONDITION OF THE VEHICLE

1.18 Under the current law, drivers have important legal responsibilities to insure the vehicle and to keep the vehicle in a roadworthy condition. Even in a world of self-driving vehicles, humans will continue to have these responsibilities. We have considered whether these offences are drafted sufficiently widely to work in a world of full driving automation, in which the responsible person is not driving the vehicle in the conventional sense.

### Insurance

1.19 There are three offences related to insurance in the Road Traffic Act 1988: using a vehicle without third party insurance (section 143(1)(a)), causing or permitting a person to use a vehicle without such insurance (section 143(1)(b)), and keeping a vehicle which does not meet insurance requirements under section 144A. We look at each in turn.

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<sup>13</sup> *DPP v Watkins* [1989] QB 821 at p 831B to D.

<sup>14</sup> Above, p 831F.

<sup>15</sup> See chapter 3 of the Preliminary Consultation Paper at paras 3.24 onwards.

<sup>16</sup> This phrase is used in section 2(1) of the Automated and Electric Vehicles Act 2018, discussed in chapter 6 of Consultation Paper 1.



## Using a vehicle without insurance

1.20 Under section 143(1)(a) of the Road Traffic Act 1988:

a person must not use a motor vehicle on a road or other public place unless there is in force in relation to the use of the vehicle by that person such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part of this Act.

1.21 The key concept here is that the offence is committed by a person “using” the vehicle. We explore the case law on who uses a vehicle below. As currently interpreted, it covers the driver, the driver’s employer (if the vehicle is being used for the employer’s business) and an owner in the vehicle using the vehicle directly for their own purposes. It has also been held to cover cases of “joint enterprise”, where two people act jointly in taking a vehicle without consent and one is then carried as a passenger in the vehicle.<sup>17</sup>

1.22 In *R&S Pilling (t/a Phoenix Engineering) v UK Insurance Ltd*,<sup>18</sup> Lord Hodge noted that “use” under EU motor insurance law carries a broader meaning than “use” in domestic law, which should be read in line with the broader EU interpretation as far as possible.<sup>19</sup> The Court of Justice of the European Union (CJEU) has held that under Directive 2009/103/EC “use of vehicles” “covers any use of a vehicle that is consistent with the normal function of that vehicle”<sup>20</sup> and “any use of a vehicle as a means of transport”.<sup>21</sup>

The fact that a vehicle was stationary or that its engine was not running at the time of the accident did not preclude the use falling within the scope of its function as a means of transport (para 39). But the concept of “use of vehicles” did not cover a circumstance in which the tractor’s principal function, at the time of the accident, was not to serve as a means of transport but to generate, as a machine for carrying out work, the motive power necessary to drive the pump of a herbicide sprayer.<sup>22</sup>

The EU interpretation is also not confined to use on a road or other public place.<sup>23</sup>

Directive 2009/103/EC is no longer binding on the UK. However, CJEU interpretations of “use” may still be persuasive to courts.

## Causing or permitting a person to use a vehicle without insurance

1.23 Under section 143(1)(b) of the Road Traffic Act 1988:

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<sup>17</sup> *Leathley v Tatton* [1980] RTR 21.

<sup>18</sup> [2019] UKSC 16, [2020] AC 1025.

<sup>19</sup> *R&S Pilling (t/a Phoenix Engineering) v UK Insurance Ltd* [2019] UKSC 16, [2020] AC 1025, [33] to [38].

<sup>20</sup> Above at [37], citing *Vnuk* [2016] RTR 10.

<sup>21</sup> Above at [38], citing *Rodrigues de Andrade v Proença Salvador* (Case C-514/16) [2018] 4 WLR 75.

<sup>22</sup> Above.

<sup>23</sup> Above at [39].

a person must not cause or permit any other person to use a motor vehicle on a road or other public place unless there is in force in relation to the use of the vehicle by that other person such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part of this Act.

1.24 *Wilkinson's Road Traffic Offences* explains that:

The offence of "causing" unlawful use requires proof of mens rea in knowledge of the facts rendering the user unlawful: in the case of a limited company such knowledge has to be of someone exercising a directing mind over the company's affairs.<sup>24</sup>

1.25 *Wilkinson's Road Traffic Offences* goes on to explain:

"To permit" is a vaguer term than "to cause". It may denote an express permission, general or particular, as distinguished from a mandate. The other person is not told to use the vehicle in a particular way, but he is told that he may do so if he desires.<sup>25</sup>

1.26 Both terms are reasonably flexible. For example, the obligation may be applied to a person who is hiring the vehicle to another, or where an owner allows a person to drive the vehicle. However, the offence only applies if "*another person*" is using the vehicle. It would not apply if the vehicle did not have another person associated with it who was regarded as a user.

### Registered keeper

1.27 The registered keeper of a vehicle is recorded by the Driver and Vehicle Licensing Agency. In 2006 a new provision (section 144A) was inserted into the Road Traffic Act 1988 which requires a registered vehicle to meet "the insurance requirements".

1.28 There are two alternative insurance requirements. The first is that an insurance policy identifies the vehicle as covered by the policy.<sup>26</sup> The second is that an insurance policy covers any vehicle (or any vehicle of a particular description) owned by a person – and the vehicle is owned by that person.<sup>27</sup>

1.29 The registered keeper has a defence if:

- (1) the registered keeper is not the person keeping the vehicle (s144B(4));
- (2) the vehicle is not used on a road or other public place (s144B(5)); or

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<sup>24</sup> K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson's Road Traffic Offences* (28th ed 2017), para 1.162. *James & Son Ltd v Smee* [1955] 1 QB 78; *Ross Hillman Ltd v Bond* [1974] RTR 279.

<sup>25</sup> K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson's Road Traffic Offences* (28th ed 2017), para 1.166.

<sup>26</sup> Road Traffic Act 1988, s 144A(3).

<sup>27</sup> Road Traffic Act 1988, s 144A(4).

(3) the vehicle had been stolen and not recovered (s144B(6)).<sup>28</sup>

- 1.30 This offence is less serious than using a motor vehicle without insurance and may be dealt with by a fixed penalty notice under section 144C of the Road Traffic Act 1988.

### Offences related to roadworthiness

- 1.31 Section 40A of the Road Traffic Act 1988 states that:

A person is guilty of an offence if he uses, or causes or permits another to use, a motor vehicle or trailer on a road

when its condition “is such that the use of the motor vehicle involves a danger of injury to any person”.

- 1.32 This is supplemented by more specific offences, each relating to different requirements set out in the Road Vehicles (Construction and Use) Regulations 1986. Section 41A of the Road Traffic Act 1988 covers requirements as to brakes, steering-gears and tyres. It states that a person who:

uses on a road a motor vehicle or trailer which does not comply with such a requirement, or causes or permits a motor vehicle or trailer to be so used, is guilty of an offence.

- 1.33 Similarly, section 41B deals with breaching weight requirements, section 41C forbids the use of speed assessment equipment detection devices, and section 42 deals with any other construction or use requirement. They are all expressed in similar terms. They all refer to using a vehicle, or causing or permitting a vehicle to be used.
- 1.34 The duties relating to insuring and complying with roadworthiness requirements use the same statutory language – using or causing or permitting a person to use a vehicle in contravention of the requirements – and have been interpreted in the same way.

### The current law on “using a vehicle”

- 1.35 The concept of using a vehicle has the potential to be a broad test, involving an element of controlling, managing or operating a vehicle. As Mr Justice Megaw said in *Brown v Roberts*:

a person does not “use ... a motor vehicle on a road”... unless there is present, in the person alleged to be the user, an element of controlling, managing or operating the vehicle at the relevant time. Precisely what the extent of that element may be, it is unnecessary to seek to define.<sup>29</sup>

- 1.36 Similarly, in *R&S Pilling (t/a Phoenix Engineering) v UK Insurance Ltd* [2019] UKSC 16, Lord Hodge noted cases in which owners were convicted of failing to have third party insurance after having abandoned their vehicles on the road. He stated:

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<sup>28</sup> Further details are set out in the Motor Vehicles (Insurance Requirements) Regulations 2011.

<sup>29</sup> [1965] 1 QB 1 at p 15A to B.

The good sense of having a broad interpretation of “use” in the requirement for compulsory third party insurance is clear as leaving an immobilised car on a public road may create a hazard for other road users, for example if the vehicle was left close to a blind corner. Similar considerations apply to protect members of the public in other places to which the public have access, such as car parks. The mischief is that an uninsured owner may not be able to compensate members of the public, who can be expected to be on a road or at a public place and who suffer personal injury or damage to property as a result of the presence of the vehicle in that place.<sup>30</sup>

1.37 In practice, however, “using a vehicle” has been construed relatively narrowly. The only people held to be “users” are:

- (1) the driver;
- (2) the driver’s employer, while it is being used on the employer’s business;<sup>31</sup>
- (3) a person engaged in a criminal joint enterprise with the driver;<sup>32</sup> and
- (4) an owner who is in the vehicle and “using the vehicle directly for their own purposes”.

1.38 The final category is based on the case of *Cobb v Williams*.<sup>33</sup> Here, the owner was a passenger in the vehicle, being driven home by a friend. He was held to be a user and was therefore found guilty for a failure to insure. Lord Widgery explained that:

the owner was in the car, and he was in the car because he wanted to make a journey, and the car was being used in order that he might make that journey.<sup>34</sup>

1.39 Lord Widgery went on to say:

In my judgment this is a perfectly clear case in which the owner was undoubtedly using the car directly for his own purposes and in person, and the fact that it was being driven by somebody else on his behalf is, in this instance, a totally irrelevant matter.<sup>35</sup>

1.40 On this basis, where the owner is in the vehicle for the purpose of making a journey, they would be considered to be a user.

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<sup>30</sup> *R&S Pilling (t/a Phoenix Engineering) v UK Insurance Ltd* [2019] UKSC 16, [2020] AC 1025, [34].

<sup>31</sup> K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson’s Road Traffic Offences* (28th ed 2017), para 1.179.

<sup>32</sup> In *Leathley v Tatton* [1980] RTR 21, the defendant was found guilty of driving without insurance when he helped a friend to take a vehicle without consent, by jump starting it and jumping into the passenger seat.

<sup>33</sup> [1973] RTR 113.

<sup>34</sup> *Cobb v Williams* [1973] RTR 113, at p 115D.

<sup>35</sup> Above, at p 115F.

- 1.41 A more difficult issue arises when the owner is *not* in the vehicle. The case of *Hallett Silberman Ltd v Cheshire County Council* raised the possibility that a user might cover a broad category of people.<sup>36</sup> The Divisional Court held that an owner who had selected the route and decided the load to be carried might be using a vehicle, even though the owner was not in the vehicle and the driver was self-employed. However, this case was distinguished in *West Yorkshire Trading Standards Service v Lex Vehicle Leasing Ltd*.<sup>37</sup> Here the Court of Appeal gave a restricted definition of the word “use” when it is found in the same context as “cause” and “permit” in criminal statutes. An owner who was not present in the vehicle was only using it if the driver was employed by the owner under a contract of service and at the material time was driving for the owner’s business.<sup>38</sup>
- 1.42 Our conclusion is that where the user-in-charge owns the vehicle, they would already be treated as a user for purposes of insurance and maintenance. However, this is less clear where the user-in-charge does not own the vehicle.

### Does the concept of an “owner” include a hirer?

- 1.43 The Road Traffic Act 1988 defines an owner as including the person in possession of a vehicle under a hire or hire purchase agreement. Section 192(1) states:

“owner”, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the vehicle under that agreement.<sup>39</sup>

- 1.44 It is clear that a consumer who purchases a vehicle under a hire purchase agreement is treated as the owner. This would also appear to be the case for a long-term hire. On this basis, the principles which apply to an owner (namely that they are a user when using the vehicle for their own purposes) would also apply to a hirer.
- 1.45 We think that there are limits to how far section 192(1) requires the court to treat short-term hirers in the same way as an owner. The section applies to a “hiring agreement”, which implies some degree of formality.
- 1.46 We have considered how the current law would apply to a passenger who uses an app to summon an automated vehicle on a one-off basis, when the vehicle is authorised to operate without a user-in-charge. We think that it is unlikely that the court would hold that the customer was a “user” under section 143 or 40A of the Road Traffic Act 1988, so as to impose responsibilities on them to insure the vehicle or maintain its roadworthiness. In these circumstances, it would clearly be more appropriate to impose these duties on the licensed operator.
- 1.47 Where the hiring agreement is more long-term, the issue becomes uncertain. In an automated environment, it may become possible to hire a vehicle on a regular but non-exclusive basis. For example, a consumer could enter into an arrangement for an

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<sup>36</sup> [1993] RTR 32.

<sup>37</sup> [1996] RTR 70.

<sup>38</sup> *West Yorkshire Trading Standards Service v Lex Vehicle Leasing Ltd* [1996] RTR 70, at p 76D-E.

<sup>39</sup> Equally, the lessor who hires out the vehicle will not be using it (although he may be “causing” or “permitting” it to be used): see *Mickleborough v BRS (Contracts) Ltd* [1977] RTR 389.

automated vehicle to appear at their house at 7am every weekday morning. It is not clear under the current law whether such a person would be considered to be a user. The combination of no obvious person in the driving seat, together with new forms of sharing, has the potential to introduce uncertainty as to who is responsible for the vehicle.

## OFFENCES RELATED TO THE WAY THE VEHICLE IS DRIVEN

1.48 Many road traffic offences arise directly from the way that the vehicle is driven. Examples include:

- (1) dangerous driving, under section 2 of the Road Traffic Act 1988;
- (2) driving without due care and attention or reasonable consideration for other road users, under section 3 of the Road Traffic Act 1988;
- (3) failing to comply with a traffic sign, under section 36 of the Road Traffic Act 1988; and
- (4) driving at a speed exceeding the specified limit, contrary to section 81 or 89 of the Road Traffic Regulation Act 1984.

1.49 These offences relate directly to the “dynamic driving task” – that is, they are committed through the way the vehicle is steered, or the brakes or accelerator are applied.<sup>40</sup>

1.50 It is Government policy that automated vehicles should observe the standards enforced by these provisions. As the Department of Transport put it in February 2015:

Currently, the driver of a motor vehicle is responsible for observing road traffic law, adhering to speed limits, observing traffic signs and driving in a safe and considerate manner. Where there is no longer a person in the vehicle who qualifies as a driver, our understanding and intention would be that a vehicle should not be used on a public road unless used in at least as safe and considerate a manner, and in compliance with all applicable legal requirements.<sup>41</sup>

1.51 For the purposes of this discussion, we assume that the authorisation authority will require AVs to abide by existing standards. Despite these controls, however, it remains possible that an automated vehicle will be found to have acted in a way that amounts to an offence under current law by, for example, exceeding a speed limit, or driving through a red light.<sup>42</sup> In Chapter 6 of the report we recommend that this should be investigated by the in-use regulator, who would apply an appropriate regulatory sanction.

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<sup>40</sup> We discuss the dynamic driving task in Chapter 2 of Consultation Paper 1.

<sup>41</sup> Department for Transport, *The Pathway to Driverless Cars: a detailed review of regulations for automated vehicle technologies* (February 2015), para 5.8.

<sup>42</sup> Automated vehicles should be less likely to run red lights than human drivers. However, for an example of automated vehicles running red lights in California, and the regulator’s reaction, see <https://www.theguardian.com/technology/2016/dec/14/uber-self-driving-cars-run-red-lights-san-francisco>.

### Example: exceeding speed limits

1.52 The National Police Chiefs Council (formerly the ACPO) has looked at the principles behind enforcement policy and issued guidelines. The current version of the speed enforcement guidelines was issued in 2013. The guidelines explain that police officers have discretion over the appropriate enforcement action. Depending on the circumstances, the officer may decide to issue a summons, issue a fixed penalty notice, offer a speed awareness course, caution, warn or take no action.

1.53 However, this discretion must be exercised in a way which is proportionate, targeted, consistent and transparent. The requirement that enforcement should be proportionate and targeted indicates that enforcement should be aimed at improving road safety rather than raising revenue. As the ACPO put it, action taken to achieve compliance:

should be proportionate to the risks to individuals and property, based on the offender's choice to offend rather than genuine mistake or worse still confusion from unclear limits.<sup>43</sup>

1.54 To this end, police officers should consider:

whether it is proportionate to take enforcement action against the offender taking into account such facts as the level of signing and engineering to support the limit and whether it was clear to the motorist that there was a limit at that speed.<sup>44</sup>

1.55 The guidelines indicate that the action should also be proportionate to the degree to which the speed exceeds the limit. The table below indicates that a fixed penalty notice is only appropriate when the speed exceeds the limit by at least 10% plus 2 miles per hour (for example, 35 miles an hour for a 30mph limit and 79 miles an hour for a 70mph limit). In a 30mph limit, a summons should be considered where the speed exceeds 42 miles per hour and should always be issued where the speed exceeds 50 miles an hour.

1.56 The full table is as follows:

Limit	Fixed penalty when course not appropriate	Speed awareness course from	Speed awareness course to	Summons in all other cases above
20mph	24mph	24mph	31mph	35mph
30mph	35mph	35mph	42mph	50mph
40mph	46mph	46mph	53mph	66mph
50mph	57mph	57mph	64mph	76mph

<sup>43</sup> Association of Chief Police Officers Speed Enforcement Policy Guidelines 2013, para 5.1.

<sup>44</sup> Association of Chief Police Officers Speed Enforcement Policy Guidelines 2013, para 9.3.

60mph	68mph	68mph	75mph	86mph
70mph	79mph	79mph	86mph	96mph

- 1.57 In Consultation Paper 1, we asked whether there were any circumstances in which AVs should be permitted to exceed speed limits within these tolerances. Views on this issue were split, with safety groups arguing strongly that AVs should never exceed the speed limit set.<sup>45</sup>

## OFFENCES RELATED TO WHERE A VEHICLE IS DRIVEN

- 1.58 Some offences relate to where a vehicle may be driven. For example, under section 34 of the Road Traffic Act 1988, it is an offence to drive a mechanically propelled vehicle on common land, moorland, a footpath, bridleway or restricted byway. Under section 21, it is an offence to drive on a cycle track.
- 1.59 For our purposes, it may be helpful to distinguish between tactical and strategic route-planning. On this basis, dynamic driving includes tactical route-planning, such as deciding what lane to drive in. The ADS would therefore be responsible for any offence or civil penalty relating to driving in a cycle lane or bus lane. The ADS should also ensure that the vehicle does not drive in a clearly illegal place, such as a verge or closed road, or the wrong way along a one-way street.
- 1.60 On the other hand, some routes involve tolls or charges. Others prohibit certain types of traffic: examples are driving prohibited vehicles on motorways or carrying dangerous goods in specified tunnels.<sup>46</sup> These appear “non-dynamic”. On this basis, a user-in-charge would need to check whether the route (for example) entered the London Congestion Charge zone. The user-in-charge would be responsible for paying the charge and would be liable for the penalty if they did not.

## OFFENCES RELATED TO WHERE A VEHICLE IS LEFT

- 1.61 Many offences relate to leaving a vehicle. The table lists 10 such offences. One example is leaving a vehicle in a dangerous position contrary to section 22 of the Road Traffic Act 1988. Another is parking a vehicle on a cycle track without lawful authority.<sup>47</sup>
- 1.62 In some cases, driving and leaving offences are combined in a single provision. For example, regulation 9 of the Motorways Traffic (England and Wales) Regulations 1982 requires that, except in specified circumstances:

No vehicle shall be driven or stop or remain at rest on any hard shoulder.

- 1.63 The exceptions set out in regulation 7(2) and (3) permit vehicles to stop in the case of breakdown, accident, illness etc, but for no longer than is necessary in the

<sup>45</sup> Analysis of Responses to Consultation Paper 1, paras 9.77 to 9.99.

<sup>46</sup> Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), para 1.9.5.

<sup>47</sup> Road Traffic Act 1988, s 21.



circumstances.<sup>48</sup> Stopping on the hard shoulder in inappropriate circumstances is a dynamic driving task offence. However, “remaining at rest” longer than is necessary is not. It will be necessary to allocate responsibility for removing an automated vehicle which has broken down.

- 1.64 Statutes commonly refer to “parking”, “waiting” or (in the case of the Motorway Regulations) “remaining at rest”.<sup>49</sup> The courts have held that these three terms are synonymous. They all require more than simply waiting in a traffic jam.<sup>50</sup> However, the terms do not (of themselves) require the wait to be of any particular length of time.<sup>51</sup> Nor do they require that the driver leaves the vehicle.<sup>52</sup>

#### Who is responsible for leaving offences?

- 1.65 The legislation uses a variety of terms to describe who is liable for leaving offences. Section 22 of the Road Traffic Act 1988 applies to “a person in charge of a vehicle”. Others relate to a person who parks.<sup>53</sup> Under the Motorways Traffic (England and Wales) Regulations 1982 and the Motorways Traffic (Scotland) Regulations 1995, offences may be committed by anyone who “uses a motorway”.<sup>54</sup>
- 1.66 There is very little case law on how these various phrases should be interpreted, for three reasons:
- (1) responsibility for the offence is often obvious and not in dispute.
  - (2) cases directly on the provisions do not typically reach a trial and report.
  - (3) the offences committed are often subsidiary to other, more serious offences such as drink-driving offences which are the focus of attention.

### RESPONSIBILITIES AFTER AN ACCIDENT

- 1.67 Following an accident, drivers are required to stop and provide identifying details. If for any reason they fail to do so, they must report the accident in person to a police station or constable within 24 hours of the accident.
- 1.68 The procedure which AVs go through following an accident is likely to prove particularly sensitive in terms of public acceptance. We therefore look in detail at the current law.

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<sup>48</sup> Motorways Traffic (England and Wales) Regulations 1982, reg 7(3)(b).

<sup>49</sup> See Motorways Traffic (England and Wales) Regulations 1982, reg 9 and Motorways Traffic (Scotland) Regulations 1995, regs 8 and 6(2) and (3).

<sup>50</sup> See *City of Bradford Metropolitan District Council v Obaid* [2001] EWHC Admin 536, [2001] LLR 451 and *Rodgers v Taylor* [1987] RTR 86.

<sup>51</sup> *Schwarz v London Borough of Camden* (17 December 2001) London Parking Tribunal (unreported).

<sup>52</sup> *Strong v Dawtry* [1961] 1 WLR 841.

<sup>53</sup> For example, under Road Traffic Act 1988 s 21, “any person who, without lawful authority... parks a [mechanically propelled] vehicle wholly or partly on a cycle track is guilty of an offence”.

<sup>54</sup> Motorways Traffic (England and Wales) Regulations 1982, reg 3(3) and Motorways Traffic (Scotland) Regulations 1995, reg 2(3).

## When do the duties apply?

1.69 The duties apply if “owing to the presence of a mechanically propelled vehicle on a road or other public place, an accident occurs”.<sup>55</sup> The accident must cause:

- (1) personal injury to a person other than the driver;
- (2) damage to another vehicle;
- (3) damage to animals of particular species – namely a dog, horse, donkey, cattle, sheep, pig or goat;<sup>56</sup> or
- (4) damage to any property fixed to the road or adjacent to the road.

1.70 The notion of an accident has been interpreted widely. In *Chief Constable of West Midlands Police v Billingham*,<sup>57</sup> the court said that the test was whether an ordinary man in the circumstances of the case would say there had been an accident.<sup>58</sup> Deliberate acts do not prevent an occurrence from being an “accident”.<sup>59</sup> The incident may also be quite minor. In *R v Morris* an accident was held to occur where two car bumpers became interlocked while one car was pushing the other.<sup>60</sup>

1.71 Nor does there have to be a collision. In *Quelch v Phipps*, the duty was held to apply when a passenger was injured stepping off an open platform bus.<sup>61</sup> However, the court explained that there would have to be some direct causal connection between the vehicle and the accident. As Lord Goddard put it, the duties would not apply:

if a person about to cross a road sees a motor-car, changes his mind and steps back instead of going on, and happens to knock down a pedestrian, for that would be nothing to do with the driver of the motor-car.<sup>62</sup>

1.72 However, issues of causation are difficult to decide without any consideration of fault. The duty to stop might arise if the vehicle was travelling at excessive speed, so as to cause the pedestrian to step back hurriedly.

## The duty to stop

1.73 The duty to stop must be read together with section 22 of the Road Traffic Act 1988, which contains the offence of leaving a vehicle in a dangerous position. This means that

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<sup>55</sup> Road Traffic Act 1988, s 170(1).

<sup>56</sup> See ss 170(1)(b)(ii) and 170(8) Road Traffic Act 1988.

<sup>57</sup> [1979] RTR 446.

<sup>58</sup> *Chief Constable of West Midlands Police v Billingham* [1979] RTR 446, at pp 452H to J and 453B to C.

<sup>59</sup> *R v Branchflower* [2004] EWCA Crim 2042, [2005] 1 Cr App R 10.

<sup>60</sup> [1972] RTR 201.

<sup>61</sup> See *Quelch v Phipps* [1955] 2 QB 107 and K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson's Road Traffic Offences* (28th ed 2017), para 7-16.

<sup>62</sup> *Quelch v Phipps* [1955] 2 QB 107, p 111.

the duty to stop requires the vehicle to stop in a safe place. As the case law puts it, this is “common sense”.<sup>63</sup>

- 1.74 This duty is the dynamic driving task element of the offence: it requires control of steering and braking. It would therefore need to be programmed into the automated driving system.

### **The duty to provide names and addresses**

- 1.75 Under section 170(2) of the Road Traffic Act 1988, following an accident, drivers must provide specified information to any person with reasonable grounds to require it. This information is their own name and address, the name and address of the owner of the vehicle, and the identification marks of the vehicle.

### **The duty to provide insurance details**

- 1.76 It is not necessary to provide insurance details at the scene of the accident. However, in the case of personal injury, a driver who does not provide insurance details at the time must report the accident to the police and produce a certificate of insurance.<sup>64</sup>
- 1.77 The accident must be reported within twenty-four hours,<sup>65</sup> but there is some leeway to allow more time to produce the insurance certificate. Under section 170(7), a person in these circumstances who fails to report is guilty of an offence:

but he shall not be convicted by reason only of a failure to produce a certificate or other evidence if, within seven days after the occurrence of the accident, the certificate or other evidence is produced at a police station that was specified by him at the time when the accident was reported.

### **The duty to report**

- 1.78 The duty to report arises if at the time of the accident the driver did not stop; or did not provide their name and address; or (in the case of personal injury) did not provide insurance details.<sup>66</sup>
- 1.79 Under section 170(6), to comply with the duty to report, the driver:
- (1) must do so at a police station or to a constable, and
  - (2) must do so as soon as is reasonably practicable and, in any case, within twenty-four hours of the occurrence of the accident.
- 1.80 The duty to report remains even if the accident is observed by the police.<sup>67</sup> This suggests that even if the vehicle has already transferred data to the emergency services under the new “eCall” provisions (discussed below) the information must still be

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<sup>63</sup> Mr Justice Jack in *Simon Paul Bland and others v Jeanette Priscilla Morris and others* [2005] EWHC 71 (QB), at [36].

<sup>64</sup> Road Traffic Act 1988, s 170(5).

<sup>65</sup> Above, s 170(6).

<sup>66</sup> Above, s 170(3) and (5).

<sup>67</sup> *DPP v Hay* [2005] EWHC 1395 (Admin), [2006] RTR 3.

reported in person. Although the statute does not specify that the report must be made in person, the courts have interpreted it in this way.<sup>68</sup>

### The mental element

- 1.81 Section 170 makes no mention of a mental element (or mens rea). However, the duties to stop and report set out above only apply if the "driver" is aware that such an accident has occurred within 24 hours of the accident.
- 1.82 The need for such a mental element was established in the English Court of Appeal case of *Harding v Price* [1948] 1 KB 695. The appellant was charged under section 22 of the Road Traffic Act 1930, which mirrors section 170 of the 1988 Act. In this case, the appellant caused damage to another vehicle while driving a motor lorry. Due to the noise and vibration caused by the trailer of the vehicle, the appellant did not realise that an accident had occurred. As such, he failed to stop or provide his name and address to any relevant person and did not report the accident. On appeal, the conviction was quashed. Lord Goddard CJ explained that:

unless a statute either clearly or by necessary implication rules out mens rea as a constituent part of a crime, the court should not find a man guilty of an offence against the criminal law unless he has a guilty mind.<sup>69</sup>

- 1.83 Lord Goddard went on to state that the application of that principle could be found in the ratio of *Nichols v Hall* (1873) LR 8 CP 322. He explained its practical application as follows:

if a statute contains an absolute prohibition against the doing of some act, as a general rule mens rea is not a constituent of the offence; but there is all the difference between prohibiting an act and imposing a duty to do something on the happening of a certain event. Unless a man knows that the event has happened, how can he carry out the duty imposed? If the duty be to report, he cannot report something of which he has no knowledge.<sup>70</sup>

- 1.84 The conviction was therefore quashed because the driver had no knowledge of the accident occurring and therefore could not fulfil the duty to report it (and presumably to stop).
- 1.85 However, it is for the accused/defendant to prove their lack of knowledge of the accident, on the balance of probabilities. This point was later approved by the Court of Appeal in *Selby v Chief Constable of Avon and Somerset* [1988] RTR 216.
- 1.86 The following cases set out the boundaries of what being unaware of the accident means. In *Magee v CPS* [2014] EWHC 4089 it was held that lack of awareness is not a defence if it was caused by voluntary intoxication. The appellant reversed her car into another vehicle, causing damage. She continued on her journey but had to stop at a junction, at which point the other driver informed her what had happened. She insisted she had not been involved and drove away. The driver was intoxicated at the

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<sup>68</sup> See *Wisdom v MacDonald* [1983] RTR 186.

<sup>69</sup> *Harding v Price* [1948] 1 KB 695, p 700.

<sup>70</sup> Above, p 701.

time and it was not clear if she genuinely believed she was not involved after speaking to the other driver. Her defence of lack of awareness was rejected. The Court also stated that it may be inferred that a driver is aware of the accident if they are told shortly afterwards, even if they had no knowledge of it at the time of occurrence. There may be rare exceptions to this (e.g. allegations made to them which the driver had reason to disbelieve) but the burden of proof of continuing lack of awareness lies with the driver.

- 1.87 In *DPP v Drury* [1989] RTR 165, the driver and his passenger were unaware of a minor collision with another car in a narrow country lane, due to music playing in the car. When they reached their destination, they noticed a mark on the driver's door and assumed there must have been a minor collision. The driver did not report the accident. On appeal, the prosecution was successful - it was held that were a driver becomes aware of accident, there was a duty to report, provided they became aware within 24 hours.
- 1.88 From this, it can be taken that the mental element of the offence of failing to stop or report an accident under section 170 is that the driver must either be aware or have been made aware that the vehicle of which they were the driver was involved in a relevant accident. The burden of proof is on the driver to prove otherwise.

### Two offences, one penalty

- 1.89 A person is guilty of an offence under section 170(4) of the Road Traffic Act 1988 if they fail to comply with either section 170(2) (the duty to stop and give information) or section 170(3) (the duty to report). A person is guilty of two offences if they fail to comply with both.<sup>71</sup> As a matter of law, the two offences are treated as having been committed on the same occasion for the purposes of penalty points, which means that the driver's licence is endorsed with the points for the offence incurring the most points.<sup>72</sup>

### Commentary on the current law

- 1.90 The law on this issue dates from the early days of motoring. The requirement to stop was introduced in 1903,<sup>73</sup> the duty to report in 1930,<sup>74</sup> and the duty to furnish insurance details in 1934.<sup>75</sup> Much of the wording remains unchanged since 1930.
- 1.91 The provision now appears old fashioned. This is particularly apparent in the defined list of animals. It is an offence to fail to stop after injuring "a horse, cattle, ass, mule, sheep, pig, goat, or dog".<sup>76</sup> It does not include cats, deer or badgers.

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<sup>71</sup> See *Roper v Sullivan* [1978] RTR 181 and K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson's Road Traffic Offences* (28th ed 2017), para 7-23.

<sup>72</sup> *Johnson v Finbow* [1983] 1 WLR 879, read together with the Road Traffic Offenders Act 1988, s 28.

<sup>73</sup> The Motor Car Act 1903, s 6 required a driver to stop if an accident occurred "owing to the presence of the motor car". It also required the driver to "give his name and address, and also the name and address of the owner and the registration mark or number of the car".

<sup>74</sup> Road Traffic Act 1930, s 22. Much of the current wording is the same as this section.

<sup>75</sup> Road Traffic Act 1934, s 13.

<sup>76</sup> This wording was introduced by the Road Traffic Act 1930, s 22(3) and is not found in the Road Traffic Act 1988, s 170(8).

- 1.92 The law puts considerable emphasis on face-to-face encounters, both at the scene of the accident and at the police station. Encounters at the scene can have a strong emotional element. There is an important policy question about whether society wishes to continue with these face-to-face interactions, or whether they could be replaced with technical or online solutions.
- 1.93 The question was raised in a 2017 study commissioned by the Motor Insurers Bureau.<sup>77</sup> The study showed that failures to stop and report are relatively common, occurring in 12% of all accidents involving personal injury. There are many reasons why people fail to stop, from panic to deliberate attempts to hide criminality. Some people can feel too intimidated to stop. The study notes that “in around 10% of observed cases, aggression from other drivers or pedestrians was also a factor that led respondents to flee the scene”.<sup>78</sup> Five out of 52 hit-and-run drivers interviewed left the scene because they thought that they were victims of scams (accidents deliberately brought about for the purpose of claiming compensation).<sup>79</sup>
- 1.94 The authors suggest that one possible solution would be to allow reporting as an alternative to stopping at the scene. The authors also identify a need for much clearer advice to drivers, concluding: “there is a requirement to devise and agree standard wording for a universal message for driver responsibilities”.<sup>80</sup>
- 1.95 The debate raises deeper questions about the nature of social interaction in the twenty-first century. On one view, face-to-face encounters are part of the glue that keeps society together, allowing people to offer assistance and acknowledge others’ concerns. The alternative view is that face-to-face encounters in these circumstances are unnecessary, potentially dangerous and should be replaced by technological ways to exchange information.
- 1.96 The issue will be brought into sharper focus now that eCall has become mandatory in new cars.<sup>81</sup> Since April 2018, new cars must be fitted with a system that automatically telephones the emergency services following a serious accident. When the airbag is deployed, the system will contact Europe’s emergency number 112 to communicate the vehicle’s location to the emergency services. An eCall can also be triggered manually by pushing a button in the car.
- 1.97 There are moves to abolish the requirement to report accidents in person. In January 2018, the Department for Transport explained how the requirement of reporting accidents in person puts a heavy burden on drivers, businesses and police forces.<sup>82</sup>

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<sup>77</sup> M Hopkins, S Chivers and G Stevenson-Freer, *Hit-and-run: why do drivers fail to stop after an accident?* (Department of Criminology at the University of Leicester, January 2017), <https://www.mib.org.uk/media/350114/hit-and-run-why-do-drivers-fail-to-stop-after-an-accident.pdf>.

<sup>78</sup> Above, p 9.

<sup>79</sup> Above, p 19.

<sup>80</sup> Above, p 34.

<sup>81</sup> Regulation (EU) 2015/758 of the European Parliament and of the Council of 29 April 2015 concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC.

<sup>82</sup> Department for Transport, *Reporting road accidents to the police, Consultation* (30 January 2018), <https://www.gov.uk/government/consultations/new-ways-to-report-road-accidents-to-the-police>.

The Government proposed to amend the legislation to allow police forces to accept police reports by other means, such as by telephone or the internet. The legislation would not mandate any particular form or reporting: each police force would have discretion to set up its own system.

## **RESPONSIBILITIES FOR THE SAFETY OF CHILDREN IN THE VEHICLE**

1.98 Drivers also have responsibilities for the safety of children in the vehicle. Under section 15 of the Road Traffic Act 1988, it is an offence for a person to drive a vehicle on a road unless children in the vehicle are in the appropriate seats and wearing the appropriate restraints. The law places responsibility on the driver to ensure not only that children start the journey in the appropriate seats with the restraints fastened, but that they continue to keep the restraints fastened throughout the journey.

1.99 Section 15 is a complex offence, which is subject to additional regulations and exemptions. In summary:

- (1) younger children must be in the correct seat for their height or weight and wear the appropriate restraints. This applies until the child is 135 centimetres tall or has reached their 12th birthday (whichever is first);
- (2) children of 12 or 13 years must wear adult seatbelts, as must younger children who are over 135cm tall.<sup>83</sup>

1.100 There are exemptions for buses, coaches and minivans.<sup>84</sup> There is also an exception for classic cars which were originally made without seatbelts.<sup>85</sup>

## **OFFENCES RELATED TO LOADING**

1.101 Users have a duty to load their vehicle in a way that ensures the load does not endanger other road users or the general public. Under section 40A of the Road Traffic Act 1988, users must ensure that the weight, position or distribution of their load does not cause danger of injury to the person. Under section 41B, users must ensure their load complies with any requirements as to weight. Under section 42, users must comply with any other construction and use requirement.

1.102 The Road Vehicles (Construction and Use) Regulations 1986 contain many requirements relevant to loading.<sup>86</sup> For example:

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<sup>83</sup> Road Traffic Act 1988, s 15(1) and (3), read together with the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations SI 1993 No 31, regs 2 and 5 and the Motor Vehicles (Wearing of Seat Belts) Regulations SI 1993 No 176, regs 2 and 8.

<sup>84</sup> Road Traffic Act 1988, s 15(1),(3) and (3A), read together with the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations SI 1993 No 31, regs 2 and 7 and the Motor Vehicles (Wearing of Seat Belts) Regulations SI 1993 No 176, regs 2 and 10.

<sup>85</sup> Such cars may not carry children under 3 years old, while children over 3 are only allowed to sit in the back seats: Road Traffic Act 1988, s 15 as amended by The Road Traffic Act 1988 (Amendment) Regulations SI 1992 No 3105, reg 3 and the Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations SI 2006 No 1892.

<sup>86</sup> Many of these are set out in regulations 75 to 93A of the Road Vehicles (Construction and Use) Regulations 1986.

- (1) The overall weight of the lorry must not exceed that shown in the plate or plating certificate;<sup>87</sup>
- (2) The overall width (together with any lateral projection) must not exceed 4.3m;<sup>88</sup>
- (3) Where a vehicle has more than four wheels, all wheels must remain in contact with the road at all times.<sup>89</sup>

1.103 Furthermore, driving a poorly loaded vehicle can constitute dangerous driving. A driver is regarded as driving dangerously “if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous”.<sup>90</sup> In deciding if the state is dangerous, regard must be had to “anything attached to or carried on or in it and to the manner in which it is attached or carried”.<sup>91</sup>

1.104 In order to make sure their loads fit within the requirements, road users should have regard to the Road Vehicles (Construction and Use) Regulations 1986. These regulations include requirements such as:

- (1) Having a plating certificate issued which reflects the weight carried (if the weight on the current plate is exceeded),<sup>92</sup>
- (2) The overall width of the vehicle together with the width of any lateral projection not exceeding 4.3m, with an overall length of a single vehicle and load not exceeding 27.4m,<sup>93</sup>
- (3) Where a vehicle has more than four wheels, ensure that all wheels remain in contact with the road at all times.<sup>94</sup>

1.105 *Wilkinson’s Road Traffic Offences* explains that the statutory requirement to properly attach loads follows the decision in *R v Crossman*.<sup>95</sup> In that case, a driver had set off knowing his load was not properly secured, and was found guilty of causing death by reckless driving when his load fell off and killed a pedestrian.<sup>96</sup> The driver’s liability for reckless driving directly related to his failure to safely secure his load.<sup>97</sup>

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<sup>87</sup> Road Vehicles (Construction and Use) Regulations 1986, reg 80.

<sup>88</sup> Above, reg 82.

<sup>89</sup> Above, reg 23.

<sup>90</sup> Road Traffic Act 1988, s 2A(2).

<sup>91</sup> Road Traffic Act 1988, s 2A(4).

<sup>92</sup> Road Vehicles (Construction and Use) Regulations 1986, reg 80.

<sup>93</sup> Above, reg 82.

<sup>94</sup> Above, reg 23.

<sup>95</sup> [1986] RTR 49.

<sup>96</sup> K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson’s Road Traffic Offences* (29th ed 2019), para 5-15.

<sup>97</sup> *R v Crossman* [1986] RTR 49, pp 51H to 52B.



- 1.106 At present, drivers must ensure that their vehicle is properly loaded before setting off on their journeys.<sup>98</sup> This duty is non-dynamic, and (under the recommended scheme) will continue to fall on users-in-charge and NUIC operators. This can be distinguished from the duty to monitor the driving environment (including the load) during the journey, which would be part of the dynamic driving task.
- 1.107 We have considered the legal consequences if a user-in-charge fails to secure their load before setting off, so that the load falls off and kills a pedestrian. Under the law as set out in *R v Crossman*, the user-in-charge could be found guilty of causing death by dangerous driving.

### Offences related to the carriage of dangerous goods

- 1.108 The Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) regulates the carriage of dangerous goods. The ADR contains a comprehensive prescriptive scheme of requirements for the legal carriage of dangerous goods, including requirements as to the labelling of the goods and vehicles, the training of crews, and security and safety provisions prior to and during carriage. Under regulation 5 of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009,<sup>99</sup> it is an offence to carry dangerous goods, or cause or permit dangerous goods to be carried, where carriage does not comply with ADR requirements.<sup>100</sup>
- 1.109 ADR duties fall on the “participants” in the carriage of dangerous goods, who shall “comply with the requirements of ADR in their respective fields”.<sup>101</sup> As such, the relevant duty holder for each duty will be the one in whose field that duty lies. A non-exhaustive list of participants in paragraph 1.4.2 of the ADR lists the main duties on the consignor, carrier, consignee, loader, packer, filler, tank operator, and unloader. Many duties will have multiple duty holders. For example, a consignor cannot hand over for consignment a carriage which does not comply with ADR requirements;<sup>102</sup> a carrier then has to verify ADR compliance;<sup>103</sup> which will then be re-verified by the consignee.<sup>104</sup>

If, during the journey, an infringement which could jeopardize the safety of the operation is observed, the consignment shall be halted as soon as possible bearing in mind the requirements of traffic safety, of the safe immobilisation of the consignment, and of public safety. The transport operation may only be continued once the consignment complies with applicable regulations. The

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<sup>98</sup> The DVSA recommend daily walkaround checks, which should “cover the whole vehicle or combination” and “interior and exterior items”. See Driver and Vehicle Standards Agency, *Guide to Maintaining Roadworthiness*, December 2020, Part 3.

<sup>99</sup> SI 2009 No 1348.

<sup>100</sup> Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations SI 2009 No 1348, reg 5.

<sup>101</sup> Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), para 1.4.1.1.

<sup>102</sup> ADR, para 1.4.2.1.1.

<sup>103</sup> ADR, para 1.4.2.2.1.

<sup>104</sup> ADR, para 1.4.3.1.1.

competent authority(ies) concerned by the rest of the journey may grant an authorization to pursue the transport operation.<sup>105</sup>

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<sup>105</sup> ADR, para 1.4.2.2.4.

# Road traffic offences table for Background Paper A

1.110 This table covers 81 of the most important road traffic offences, including all the offences covered by the Magistrates' Court Sentencing.

1.111 Given the volume of possible offences, the table does not purport to contain every road traffic offence. For example, offences related to specific types of pedestrian crossing or specific speed limit zones are omitted to avoid unnecessary repetition. Nor does it include local bylaws<sup>106</sup> or offences concerning drivers' working hours.

1.112 The offences are organised into categories, depending on whether they relate to:

- (1) the condition of a driver;
- (2) the condition of a vehicle;
- (3) the way in which a vehicle is driven;
- (4) where a vehicle is driven;
- (5) where a vehicle is left;
- (6) conduct following an accident;
- (7) road safety (including seat belts and secondary activities); or
- (8) loading.

1.113 This categorisation does not necessarily follow the structure of road traffic legislation or textbooks such as *Wilkinson's Road Traffic Offences*.<sup>107</sup> Instead it has been selected to enable logical analysis of the offences as part of the Automated Vehicles Review. This may mean, however, that some offences appear to overlap between categories; an example is causing death by driving while unlicensed, which is classed here as an offence relating to the driver's condition.

1.114 In the table, "RTA" signifies the Road Traffic Act 1988, "RTRA" signifies the Road Traffic Regulation Act 1984 and "C and U Regs" signifies the Road Vehicles (Construction and Use) Regulations 1986.<sup>108</sup> An asterisk [\*] signifies a provision that is not worded uniformly across Great Britain.

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<sup>106</sup> Bylaws are laws that only apply in a particular locality and are usually made by municipal authorities.

<sup>107</sup> K McCormac, P Brown, P Veits, N Watson and J Woodhouse (eds), *Wilkinson's Road Traffic Offences* (28th ed 2017).

<sup>108</sup> Road Vehicles (Construction and Use) Regulations SI 1986 No 1078.

## 1. OFFENCES RELATING TO THE DRIVER'S CONDITION

Offence	Who is liable?	Legislation
Driving a motor vehicle of any class otherwise than in accordance with a licence authorising them to drive a motor vehicle of that class	A person by driving, or a person who causes or permits another to drive	ss 87(1) and 87(2) RTA
Causing death by driving whilst unlicensed or uninsured	A person... by driving	s 3ZB RTA
Causing death by driving whilst disqualified	A person... by driving	s 3ZC RTA
Causing serious injury by driving whilst disqualified	A person... by driving	s 3ZD RTA*
Driving or obtaining a licence while disqualified from obtaining a licence	A person who obtains a licence while disqualified; or a driver	s 103(1) RTA*
Driving a vehicle with a false declaration as to any relevant disability or any prospective disability	A person by driving	s 92(10) RTA
Driving with uncorrected eyesight	A person by driving	s 96(1) RTA
Causing death by careless driving when under the influence of drink or drugs	A person... by driving	s 3A RTA
Driving or attempting to drive when under the influence of drink or drugs	A person... when driving or attempting to drive	s 4(1) RTA*
Being in charge of a vehicle under the influence of drugs	A person... when in charge	s 4(2) RTA*
Driving with alcohol concentration above the prescribed limit	A person [who] drives	s 5(1)(a) RTA
Being in charge of a vehicle with alcohol concentration above the prescribed limit	A person [who] is in charge	s 5(1)(b) RTA

**1. OFFENCES RELATING TO THE DRIVER'S CONDITION**

<b>Offence</b>	<b>Who is liable?</b>	<b>Legislation</b>
Driving with concentration of a specified controlled drug above the specified limit.	A person [who] drives	s 5A(1)(a) RTA
Being in charge of a vehicle with concentration of a specified controlled drug above the specified limit.	A person [who] is in charge	s 5A(1)(b) RTA

**2. OFFENCES RELATING TO THE CONDITION OF A VEHICLE**

<b>Offence</b>	<b>Who is liable?</b>	<b>Legislation</b>
Using a vehicle without an insurance policy in respect of third party risks in place in relation to that use	A person who uses, or a person who causes or permits another to use	s 143(1)(a), s 143(1)(b) RTA
Failing to produce certificate of insurance, or other evidence, if required	Owner	s 171 RTA
Keeping a vehicle, which does not meet these insurance requirements:  it is covered by a policy of insurance or a security in respect of third party risks which complies with RTA Part 6, and  the policy or security, or the certificate of insurance or security which relates to it, identifies the vehicle by its registration mark as a vehicle which is covered by the policy or security, or  the policy covers any vehicle, or any vehicle of a particular description, the owner of which is a person named in the policy or in the certificate of insurance	The person in whose name the vehicle is registered	s 144A RTA  (NB s 144B RTA sets out a list of exceptions to this offence).

which relates to it, and the vehicle is owned by that person.		
<p>Using a vehicle in a dangerous condition, which causes danger of injury to any person due to:</p> <ul style="list-style-type: none"> <li>- condition of the vehicle</li> <li>- purpose for which used</li> <li>- number of passengers carried, or the manner in which they are carried</li> <li>- weight, position, distribution of load, or manner in which it is secured</li> </ul>	A person who uses, or who causes or permits another to use	s 40A RTA
Using a vehicle on the road which does not comply with type approval requirements	A person who uses, or a person who causes or permits a vehicle to be used	s 63(1) RTA 1988
Using a vehicle on the road to which an alteration to the vehicle or equipment has been made which must be (but has not been) notified to the Secretary of State	A person who uses, or a person who causes or permits a vehicle to be used	s 63(3) RTA 1988
Using a vehicle for any purpose for which it is so unsuitable as to cause or be likely to cause danger or nuisance to any person in or on the vehicle or on a road	User	reg 100 C and U Regs; ss 34(5), 40A and 172 RTA
Altering or supplying a vehicle in an unroadworthy condition: the use of it on a road in that condition would be unlawful by virtue of regulation as regards the brakes, steering gear, tyres, construction, weight, equipment, or it is in such a condition that its use on the	A person who supplies or alters, or who causes or permits the supply or alteration	s 75(5) RTA

road would involve a danger of injury to any person		
Contravening or failing to comply with a construction and use requirement [other than as to brakes, steering-gear or tyres, weight requirements, the use of a vehicle which does not give proper control or the use of mobile telephones]	A person who contravenes or fails to comply	s 42(a) RTA
Using a vehicle which does not comply with a construction and use requirement [other than as to brakes, steering-gear or tyres, weight requirements, the use of a vehicle which does not give proper control or the use of mobile telephones] or causing or permitting the vehicle to be so used	A person who uses, or causes or permits a non-compliant vehicle to be used	s 42(b) RTA
Contravening construction and use requirements as to brakes, steering-gear or tyres	A person who contravenes or fails to comply	s 41A(a) RTA
Using a vehicle which contravenes a construction and use requirement as to brakes, steering-gear or tyres or causing or permitting the vehicle to be so used	A person who uses, or causes or permits a non-compliant vehicle to be used	s 41A(b) RTA
Contravening construction and use requirement as to speed detection devices	A person who contravenes or fails to comply	s 41C(a) RTA
Using a vehicle which contravenes construction and use requirement as to speed detection devices or causing or permitting it to be so used	A person who uses, or causes or permits a non-compliant vehicle to be used	s 41C(b) RTA

Driving a motor vehicle in a position which does not give proper control or a full view of the road and traffic ahead or causing or permitting the vehicle to be driven in such a position	A person who drives or causes or permits the vehicle to be driven	s 41D(a) RTA
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### 3. OFFENCES RELATING TO THE WAY IN WHICH A VEHICLE IS DRIVEN

Offence	Who is liable?	Legislation
Dangerous driving	A person who drives...	ss 2, 2A RTA
Causing death by dangerous driving	A person... by driving	ss 1, 2A RTA
Causing serious injury by dangerous driving	A person... by driving	s 1A RTA
Careless and inconsiderate driving	A person [who] drives	s 3 RTA
Causing death by careless, or inconsiderate, driving	A person... by driving	s 2B RTA
Driving a motor vehicle on a road at a speed exceeding a limit imposed by any enactment to which this section applies (includes temporary maximum/minimum speed limits, s 88(1) RTRA)	Driver	s 89 RTRA
Failure to comply with traffic directions from a constable or traffic officer:  - to stop the vehicle  - to proceed in, or keep to, a particular lane of traffic	A person driving or propelling	s 35 RTA*
Failure to comply with [authorised, lawfully placed] traffic signs and traffic lights	A person driving or propelling	s 36(1) RTA



### 3. OFFENCES RELATING TO THE WAY IN WHICH A VEHICLE IS DRIVEN

Offence	Who is liable?	Legislation
		(Traffic Signs Regulations and General Directions 2016/362, schedule 14, para 5 provides further details about traffic lights).
Failing to stop when requested to do so by a school crossing patrol officer; or starting to drive again while the school crossing patrol officer is still displaying the prescribed sign	A person driving or propelling a vehicle	s 28 RTRA
Contravention of a traffic regulation order	The person who contravenes the order, or who uses a vehicle/causes or permits a vehicle to be used in contravention with traffic regulation orders	s 5 RTRA
Causing a vehicle or any part of it to stop within the limits of a pedestrian crossing	The driver of a vehicle	Traffic Signs Regulations and General Directions 2016/362, schedule 14, Part 5, para 1; s 25(5) RTRA.
Stopping vehicles in controlled area around a crossing	The driver of a vehicle	Traffic Signs Regulations and General Directions 2016/362, schedule 14, Part 5 paras 3 and 4.
Use of motor vehicle trials on footpaths, bridleways, restricted byways without authorisation of local authority	A person (by promoting or taking part)	s 33 RTA*
Using a prohibited vehicle on a motorway	A person who uses	England and Wales: s 17, RTRA; Highways Act 1980, schedule 4  Scotland: Roads (Scotland) Act 1984, schedule 3

### 3. OFFENCES RELATING TO THE WAY IN WHICH A VEHICLE IS DRIVEN

Offence	Who is liable?	Legislation
Driving a carriage furiously in a street, to the obstruction, annoyance or danger of the residents or passengers	A person who drives	s 28 Town Police Clauses Act 1847

### 4. OFFENCES RELATING TO WHERE A VEHICLE IS DRIVEN

Offence	Who is liable?	Legislation
Driving mechanically propelled vehicles elsewhere than on roads:  - on common land, moorland etc.  - on any road being a footpath, bridleway or restricted byway	A person who drives	s 34 RTA
Driving a vehicle wholly or partly on a cycle track, without lawful authority	A person who drives	s 21(1) RTA
Wilfully riding upon any footpath or causeway by the side of any road made or set apart for pedestrians; or leading a carriage of any description or any truck, upon any such footpath or causeway	A person who rides or leads a carriage or truck	s 72 Highway Act 1835

## 5. OFFENCES RELATING TO WHERE A VEHICLE IS LEFT

Offence	Who is liable?	Legislation
Leaving vehicles in dangerous positions: in such a position or in such condition or in such circumstances as to involve a danger of injury to other persons using the road	A person in charge of a vehicle who causes or permits the vehicle to be left	s 22 RTA
Leaving a motor vehicle which is not attended by a person licensed to drive it unless the engine is stopped and any parking brake with which the vehicle is required to be equipped is effectively set	Any person who leaves a motor vehicle	regs 98 and 107 C and U Regs
Leaving two or more vehicles parked within 500 metres of each other on a road where they are exposed or advertised for sale; or causing two or more vehicles to be so left	A person who leaves vehicles or causes them to be left	s 3 Clean Neighbourhoods and Environment Act 2005
Obstructing the highway, without lawful authority or excuse	A person who obstructs	England and Wales: s 137 Highways Act 1980  Scotland: common law
Causing or permitting a motor vehicle or trailer to stand on a road so as to cause any unnecessary obstruction of the road	A person in charge of a motor vehicle	reg 103 C and U Regs
Parking a mechanically propelled vehicle wholly or partly on a cycle track without lawful authority	A person	England and Wales: s 21 RTA  Scotland: s 129(6) Roads (Scotland) Act 1984

**5. OFFENCES RELATING TO WHERE A VEHICLE IS LEFT**

<b>Offence</b>	<b>Who is liable?</b>	<b>Legislation</b>
Stopping or remaining at rest on a carriageway or motorway	A person who stops the vehicle	England and Wales: reg 7 Motorways Traffic (England and Wales) Regulations 1982/1163*  Scotland: reg 6, Motorways Traffic (Scotland) Regulations 1995/2507
Stopping or remaining at rest on any hard shoulder or emergency refuge area (unless necessary because of breakdown, accident, emergency or illness, for example)	A person who stops a vehicle or lets it remain at rest	England and Wales: reg 9 Motorways Traffic (England and Wales) Regulations 1982/1163*  Scotland: reg 8 Motorways Traffic (Scotland) Regulations 1995/2507
Parking a vehicle so that one or more of its wheels is resting on a footway, other land situated between two carriageways, or in any other grass verge, garden or space	Any person who parks	For heavy commercial vehicles: s 19 RTA; for any vehicle in Greater London: s 15 Greater London Council (General Powers) Act 1974

**6. OFFENCES RELATING TO CONDUCT FOLLOWING AN ACCIDENT**

<b>Offence</b>	<b>Who is liable?</b>	<b>Legislation</b>
Failing to stop and give driver's details and owner's details if required to do so	Driver	s 170(2) RTA
Failing to report the accident	Driver	s 170(3) and (4) RTA
Failing to report an accident and produce insurance details where an accident causes personal injury	Driver	s 170(5) to (7) RTA
Failure to comply with the duty to give information as to identity of the driver	A person who keeps the vehicle or any other person whom the police ask for information	s 172(2) RTA

<b>7. OFFENCES RELATING TO SAFETY</b>		
<b>Offence</b>	<b>Who is liable?</b>	<b>Legislation</b>
Riding in or driving a motor vehicle in contravention of seatbelt regulations	A person who rides in or drives	s 14(3) RTA
Carrying child (under 14) not wearing seat belt in the front seat of a motor vehicle, without reasonable excuse	A person who drives	s 15(1) and (2) RTA
Carrying child in rear-facing child seat in the front seat of a vehicle [not a bus] with activated airbag, without reasonable excuse	A person who drives	s 15(1A) and (2) RTA
Carrying child under 3 in the rear, or aged 3 to 14 and in the rear seat with fitted seatbelt, without the child wearing a seat belt, and without reasonable excuse	A person who drives	s 15(3) and (4) RTA
Carrying a child under 12 and shorter than 150 cm in the rear where no seat belt is fitted, when there is an unoccupied front seat with a fitted seat belt, without reasonable excuse.	A person who drives	s 15(3A) and (4) RTA
Driving while using a hand-held mobile/device	A person who drives or supervises the driving of a vehicle, or who causes or permits another to drive	reg 110(1) C and U Regs; s 41D(b) RTA
Driving while being in a position to see a screen displaying information unrelated to driving	A person who drives, or who causes or permits another to drive	reg 109 C and U Regs
Causing danger to road users:	A person	England and Wales: s 22A RTA

## 7. OFFENCES RELATING TO SAFETY

Offence	Who is liable?	Legislation
<ul style="list-style-type: none"> <li>- causing anything to be on or over a road</li> <li>- interfering with a motor vehicle, trailer or cycle</li> <li>- interfering (directly or indirectly) with traffic equipment</li> </ul> <p>in such circumstances that it would be obvious to a reasonable person that to do so would be dangerous</p>		Scotland: s 129(2) Roads (Scotland) Act 1984
Tampering with motor vehicles: getting on to the vehicle or tampering with the brake or other part of its mechanism	A person	s 25 RTA
Holding or getting on to vehicle in order to be carried	A person	s 26(1) RTA
Taking or retaining hold of a vehicle while in motion to be drawn/towed	A person	s 26(2) RTA

## 8. OFFENCES RELATING TO LOADING

Offence	Who is liable?	Legislation
Carrying a load so that the lateral, forward or rearward projection exceeds specified lengths unless certain requirements have been complied with.	<p>Where lateral projection: a person</p> <p>Where forward or rearward projection: person who uses, or causes or permits to be used</p>	reg 82 C and U Regs
Driving a vehicle with overall height exceeding 3m without notice displayed inside the vehicle	Person who drives or causes or permits to be driven	reg 10 C and U Regs

## 8. OFFENCES RELATING TO LOADING

Offence	Who is liable?	Legislation
Driving a vehicle with overall height exceeding 3m without visual warning device	Person who drives or causes or permits to be driven	reg 10A C and U Regs
Driving a vehicle in a way that the weight, position or distribution of its load or the manner in which it is secured, is such that it causes a danger of injury to any person	A person who uses or causes or permits another to use	s 40A RTA 1988
Driving a vehicle in a state that is dangerous, having regard to anything attached to it or carried on or in it, and to the manner in which it is attached or carried	A person who drives	s 2A(4) RTA 1988
Driving without complying with a construction and use requirement as to any description of weight and using on a road a vehicle which does not comply with such requirements	A person who contravenes or fails to comply, or who uses, or who causes or permits a vehicle to be used	s 41B RTA 1988; regs 75-79 C and U Regs
Duty not to use a vehicle without a plating certificate or without respecting the weight restrictions attached to that plating certificate	A person using or permitting a vehicle to be used	reg 80 C and U Regs
Transport of controlled waste in the course of business or with a view to profit	Any person who is not a registered carrier of controlled waste	s 1 Control of Pollution (Amendment) Act 1989
Duty to take all reasonable measures to prevent the escape of waste	Person who imports, produces, carries, keeps, treats or disposes of controlled waste	s 34 Environmental Protection Act 1990*

## 8. OFFENCES RELATING TO LOADING

8. OFFENCES RELATING TO LOADING		
Offence	Who is liable?	Legislation
Carrying dangerous goods where carriage is prohibited by or does not comply with the requirements of ADR, <sup>109</sup> such duties including, for example:	Person who carries or causes or permits dangerous goods to be carried	reg 5 Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009/1348 (CDG Regs)
a. Appointing a Dangerous Goods Safety Adviser	Participants in the carriage of dangerous goods <sup>110</sup>	para 1.8.3 Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)
b. Training all employees whose duties concern the carriage of dangerous goods in ADR requirements	Participants in the carriage of dangerous goods	para 1.3.1 ADR
c. Taking appropriate measures to avoid and minimise damage and injury and immediately notify emergency services of any immediate risk to public safety	Participants in the carriage of dangerous goods	para 1.4.1 ADR
d. Duty to ensure dangerous goods are delivered within a reasonable time to the appropriate person	Carrier and driver	reg 7 CDG Regs
e. Duty to take all reasonable steps to ensure that unauthorised access to those goods is prevented	Person involved in the carriage of dangerous goods	reg 8 CDG Regs

<sup>109</sup> Annexes A and B to the European Agreement concerning the International Carriage of Dangerous Goods by Road, as revised or reissued from time to time.

<sup>110</sup> Including carriers, packers, fillers, loaders and unloaders: see ADR, para 1.4. Note: while the ADR duty applies to participants, it is only domestically enforceable through reg 5 of the CDG Regs, which applies to persons carrying, causing or permitting dangerous goods to be carried.



## Background paper B: NUIC passenger services and existing passenger licensing requirements

- 1.1 This background paper looks at existing passenger vehicles legislation, as it applies to taxis, private hire vehicles and public service vehicles. We consider how these provisions could apply to vehicles operating with no user-in-charge (NUIC) features, used to carry passengers.
- 1.2 We consider the extent to which “drivers” are essential to the regulatory scheme of taxi, private hire and public service vehicle services. We set out the provisions in taxi, private hire and PSV legislation to facilitate analysis of whether AVs with no user-in-charge could be eligible for licensing without having a driver. However, we cannot give definitive answers: it will be for the courts to determine how existing legislation should be interpreted where passenger services are offered with no driver or user-in-charge.
- 1.3 This analysis does not prejudice the question of whether a “driver”, as used in the legislation, could be interpreted to apply in the absence of a natural person fulfilling that role. That is a matter for the courts to interpret in all the circumstances of the case.
- 1.4 The paper is split into three sections:
  - (1) We start with the definitions of taxi, private hire and public service vehicles under existing law. We consider how far NUIC vehicles offering passenger services would fit within these licensing schemes. Conversely, would they be in breach of licensing provisions if they offer such services without a licence?
  - (2) We then provide sample provisions from existing legislation that apply to drivers, but which have no clear applicability to services offered without a driver.
  - (3) Finally, we give sample legislative provisions that do not expressly refer to drivers. These provisions could more easily be applied in the context of NUIC vehicles offering passenger services.

### Definitions

- 1.5 The first table contains the existing definitions of taxis, private hire vehicles and public service vehicles contained in legislation across Scotland, London, and the remainder of England and Wales.<sup>1</sup>
- 1.6 In Scotland, the definition of taxi services expressly refers to “drivers”. This means that without legislative amendment, there is doubt as to whether a NUIC vehicle could obtain a licence. In England and Wales (including London), drivers do not feature

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<sup>1</sup> In Plymouth, taxi and private hire services are governed by the Plymouth City Council Act 1975. This legislation was the model for the Local Government (Miscellaneous Provisions) Act 1976 which is in force in the remainder of England and Wales.

directly in the definition.<sup>2</sup> This leaves the question of whether the definition could apply in the absence of an individual “driver” open. We consider how “plying for hire” might be interpreted in respect of NUIC vehicles below.

- 1.7 The definition of a private hire vehicle (or, in Scotland, a private hire car) refers to the services of a driver in all jurisdictions. The reference to the function that the driver performs (the ‘services’ provided) might include an automated driving system, but the matter is not clear. This is true in Scotland and in England and Wales.
- 1.8 The definition of a public service vehicle, which is the same in Scotland and in England and Wales, including London, appears to apply in the absence of a natural person fulfilling the driver role.

## Prohibitions of unlicensed activities

### Taxis and “plying for hire”

- 1.9 In England and Wales, the ability to “ply for hire” is the defining exclusive privilege of taxis. Plying for hire has no statutory definition but the essence of plying for hire is that the vehicle in question should be on view, available for immediate hire by members of the public.<sup>3</sup> Here we consider the extent to which the current law could restrict taxi services provided in NUIC vehicles.
- 1.10 In London, section 7 of the Metropolitan Public Carriage Act 1869 prohibits an unlicensed hackney carriage from plying for hire; section 8 prohibits it doing so without a licensed driver. Section 4 defines a hackney carriage as “any carriage for the conveyance of passengers which plies for hire ... and is neither a stage carriage nor a tramcar”. A stage carriage is “a carriage ... which plies for hire and in which the passengers or any of them ... pay separate and distinct fares”. Therefore, if a NUIC vehicle plied for hire the owner could fall foul of these provisions.<sup>4</sup>
- 1.11 In the rest of England and Wales, section 45 of the Town Police Clauses Act 1847 imposes a fine of up to £2,500 on the proprietor or part proprietor of “any carriage” who “permits the same to be used as a hackney carriage plying for hire” without having obtained a licence.<sup>5</sup> Such a fine is also imposed on “any person ... found driving, standing, or plying for hire with any carriage” without a licence.<sup>6</sup>
- 1.12 There is some room for argument as to when a vehicle is “used as a hackney carriage”. Section 38 defines a hackney carriage as a “wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street ...

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<sup>2</sup> On the other hand, if a NUIC vehicle plied for hire without a taxi licence, the owner could be found guilty of unlawfully plying for hire in a wide variety of circumstances contrary to the Town Police Clauses Act 1847, s 45; and the Metropolitan and Public Carriage Act 1869, s 8. See *Gilbert v McKay* [1946] 1 All ER 458; *Vant v Cripps* [1964] Crim LR 594. This could be avoided if the NUIC was licensed as a PSV, as PSVs are expressly carved out of the definition of plying for hire in England and Wales, Scotland and London.

<sup>3</sup> See *Cogley v Sherwood* [1959] 2 QB 311, at 325.

<sup>4</sup> Metropolitan Public Carriage Act 1869, s 7.

<sup>5</sup> The specified fine is up to level 4 on the standard scale: Town Police Clauses Act 1847, s 45. For convictions after 1 December 2020, level 4 on the standard scale is up to £2,500: Sentencing Act 2020, ss 2(1) and 122.

<sup>6</sup> Town Police Clauses Act 1847, s 45.

having thereon” an official or imitation taxi plate; but there is an exception for stage coaches “used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose”.<sup>7</sup>

- 1.13 It is possible that a NUIC vehicle that charged separate fares could avoid the plying for hire prohibitions if it was licensed as a public service vehicle (the modern equivalent of the stage carriage and stage coach). Pre-booking a journey does not necessarily take it outside the scope of plying for hire prohibitions.<sup>8</sup>
- 1.14 In Scotland, taxis’ privilege to undertake work that is not pre-booked is defined as providing a journey made pursuant to arrangements with the driver and beginning “there and then”. The application of this provision in the absence of a driver who is a natural person is unclear.

### Private hire vehicles

- 1.15 Section 2 of the Private Hire Vehicles (London) Act 1998 provides that “no person shall in London make provision for the invitation or acceptance of, or accept, private hire bookings unless he is the holder of a private hire vehicle operator’s licence for London”. A private hire booking is defined by section 1 as “a booking for the hire of a private hire vehicle for the purpose of carrying one or more passengers” and a private hire vehicle is in turn described as “a vehicle constructed or adapted to seat fewer than nine passengers which is made available with a driver . . . for hire for the purpose of carrying passengers, other than a licensed taxi or a public service vehicle”.
- 1.16 In the rest of England and Wales, section 46 of the Local Government (Miscellaneous Provisions) Act 1976 prohibits “the proprietor of any vehicle, not being a [licensed taxi]” from permitting the vehicle to be “used in a controlled district as a private hire vehicle” without a licence under the Act;<sup>9</sup> section 80 defines a private hire vehicle as “a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle or a London cab or tramcar, which is provided for hire with the services of a driver for the purpose of carrying passengers”.
- 1.17 It is unclear whether a person who made provision for the booking of journeys in a NUIC vehicle designed to carry no more than eight passengers would commit an offence under private hire vehicle legislation in England and Wales. In London, it would depend on whether an AV is “made available with a driver”, and in the rest of England and Wales, upon whether the vehicle’s automated driving system amounted to “the services of a driver”.
- 1.18 In Scotland, section 21 of the Civic Government (Scotland) Act 1982 makes it an offence for an unlicensed private hire car to pick up passengers within an area where a licence is required. A private hire car is defined as a hire car other than a taxi and is

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<sup>7</sup> Town Police Clauses Act 1847, s 38.

<sup>8</sup> As noted in the Law Commission’s 2014 taxi and private hire services report, unlike public service vehicles which are expressly excluded from the scope of the definition of a taxi (and plying for hire), private hire vehicles are not. Consequently, lawful pre-booking and licensing as a private hire service does not exclude the risk of breaching restrictions on plying for hire. See Taxi and Private Hire Services (2014) Law Com No 347, paras 3.6 to 3.22 and 4.53 to 4.57.

<sup>9</sup> Corresponding provisions can be found in the Plymouth City Council Act 1975: see, for example, s 3.

a “motor vehicle with a driver ... which is, with a view to profit, available for hire by the public for personal conveyance”.<sup>10</sup> Liability would depend on whether the term “driver” includes an automated driving system.

### **Cross-border working**

- 1.19 In the report we note that when vehicles cross borders between authorities this causes enforcement problems.<sup>11</sup> This is true for both taxi and private hire services. It is among the issues debated as part of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill.<sup>12</sup>
- 1.20 Problems include vehicles licensed by one authority working predominantly in another licensing authority area; the lack of national minimum standards; and the inability of licensing authorities to undertake administrative enforcement against vehicles or drivers licensed in another area. These issues have been at the heart of calls for reform for decades.
- 1.21 When the border is crossed between Scotland and England, section 75(2A) of the Local Government (Miscellaneous Provisions) Act 1976 applies. It provides that a hire car licensed in Scotland as a taxi or for private hire purposes under the Civic Government (Scotland) Act 1982 will be treated as equivalent to a vehicle licensed under the 1976 Act. This means that, in England and Wales, the problems outlined above in respect of cross-border working apply when crossing borders within England and Wales; and from Scotland to England.
- 1.22 In Scotland, section 21(2) of the Civic Government (Scotland) Act 1982 provides that a taxi or private hire car can operate in an area for which it is not licensed provided the request for its hiring was received by its driver whilst—
- (a) in the area in which its operation and driver are licensed;
  - (b) engaged on a journey which began in that area or will end there; or
  - (c) returning to that area immediately following completion of the journey.
- 1.23 However, these exceptions do not apply to bookings “there and then” in a public place.
- 1.24 A private hire car licensed in England can also operate in Scotland under section 21(3). This means that cross-border working issues also apply within Scotland across local authority borders and across the Anglo-Scottish borders.

### **Passenger Service Vehicles (PSVs)**

- 1.25 In England and Wales, and Scotland section 12(1) of the Public Passenger Vehicles Act 1981 prohibits a PSV from being used on a road to carry passengers for hire or reward except in accordance with a licence granted under the Act. A PSV is defined

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<sup>10</sup> Civic Government (Scotland) Act 1982, s 23.

<sup>11</sup> Automated Vehicles (2022) Law Com No 404, para 10.27.

<sup>12</sup> The Bill passed its third reading in the House of Commons on 22 January 2022. The first reading in the House of Lords took place on 24 January 2022.

as “a motor vehicle (other than a tramcar)” used for carrying passengers for hire or reward which either has more than eight passenger seats or carries passengers at separate fares.<sup>13</sup>

- 1.26 It therefore appears that it would be unlawful under this legislation to use a NUIC vehicle to provide passenger services on a road for hire or reward if it had more than eight seats or separate fares were charged. Under section 12(5), the “operator” of the vehicle commits an offence if section 12(1) is contravened, but section 81 defines the operator as the driver or the person for whom the driver works. It is hard to see how anyone could be prosecuted for a breach of section 12(1) involving a NUIC vehicle with no driver, however, an injunction to restrain the breach might be available.

#### Hire or reward

- 1.27 The phrases “for hire” and “hire or reward” arguably require the existence of a contract of carriage (with some consideration being given for the carriage) with a passenger before a licence is required. The issue was addressed by the House of Lords in *Albert v Motor Insurers Bureau*,<sup>14</sup> a case concerned with insurance rather than the then predecessor of section 12(1) of the 1981 Act. It was said that “carrying passengers for hire or reward” meant “a systematic carrying of passengers for reward which goes beyond the bounds of mere social kindness”.<sup>15</sup> The case is a difficult one to interpret. The court’s rationale related specifically to the insurance obligation being considered and not to the obligation to hold a PSV licence. Moreover, the judges expressed three divergent views as to the meaning of “hire or reward”, with the “beyond social kindness” interpretation supported by just two of them.<sup>16</sup>
- 1.28 Nevertheless the “beyond social kindness” test has been applied by the courts, so as to find that the obligation to have a PSV licence has been breached in the absence of any fares.<sup>17</sup> In *DPP v Sikondar*,<sup>18</sup> a father regularly carried school children to and from school in his minibus. He received occasional sums of money from parents to cover his petrol costs, but did not demand payment. The court found that there had been a systematic carrying of passengers that went beyond mere social kindness, amounting to a business activity. Therefore, the defendant came within the meaning of a PSV operator.
- 1.29 In *Rout v Swallow Hotels Ltd*,<sup>19</sup> a courtesy coach and minibus were provided without charge to run between hotels, points of arrival and departure, and places of entertainment. The vehicles could be used not only by hotel guests but also by friends of guests, though no one had a right to travel. Again, it was held that the vehicles were

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<sup>13</sup> Public Passenger Vehicles Act 1981, s 1.

<sup>14</sup> [1972] AC 301.

<sup>15</sup> *Albert v Motor Insurers Bureau* [1972] AC 301 at 319C, by Lord Donovan.

<sup>16</sup> Above, p 319C (by Lord Donovan) and pp 332F to 333C (by Lord Pearson). However, Lord Diplock preferred a different interpretation of “hire or reward” (p 334C), which Lord Cross accepted in its entirety (see pp 340E to 341E) and Viscount Dilhorne accepted only in part (see pp 321H to 329C and 334).

<sup>17</sup> See *DPP v Sikondar* [1993] RTR 90; and *Rout v Swallow Hotels Limited* [1993] RTR 80.

<sup>18</sup> [1993] RTR 90.

<sup>19</sup> [1993] RTR 80.

PSVs. They were a part of the hotel business and were included in the payment by guests for the room or the meal.<sup>20</sup>

- 1.30 It is therefore far from clear that a NUIC operator could avoid the legislation simply by not selling tickets.

**Table 1**

<u>Taxi Licensing</u>			
<u>Provision</u>	<u>Definition</u>	<u>Express mention of “driver”</u>	<u>Extent</u>
Civic Government (Scotland) Act 1982, section 23:	(1) In sections 10 to 22 of this Act—  “taxi” means a hire car which is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his behalf) and its driver for a journey beginning there and then  (2) In subsection (1) above, “hire car” means a motor vehicle with a driver ... which is, with a view to profit, available for hire by the public for personal conveyance.	Yes  “between the person to be conveyed in it [...] and its <b>driver</b> ”  “a motor vehicle with a <b>driver</b> ”	Scotland
Town Police Clauses Act 1847, section 38:	Every wheeled carriage, whatever may be its form or construction, used in standing or <i>plying for hire</i> * in any street within the prescribed distance... having thereon any numbered plate required by this... or...any plate resembling or intended to resemble any such plate as aforesaid...shall be deemed to be a hackney carriage within the meaning of this Act	No	England and Wales (excluding London)
Metropolitan Public Carriage Act 1869, section 4:	“Hackney Carriage” shall mean any carriage for the conveyance of passengers which plies for hire within the limits of this Act, and is [neither a stage carriage nor tramcar].	No	London

<sup>20</sup> [1993] RTR 80, 88L to 89A.

<u>Private Hire Licensing</u>			
<u>Provision</u>	<u>Definition</u>	<u>Express mention of “driver”</u>	<u>Extent</u>
Civic Government (Scotland) Act 1982, section 23:	<p>(1) In sections 10 to 22 of this Act – ...“private hire car” means a hire car other than a taxi...</p> <p>(2) In subsection (1) above, “hire car” means a motor vehicle with a driver... which is, with a view to profit, available for hire by the public for personal conveyance.</p>	<p>Yes</p> <p>“a motor vehicle with a <b>driver</b>”</p>	Scotland
Private Hire Vehicles (London) Act 1998, section 1:	<p>In this Act—</p> <p>(a) “private hire vehicle” means a vehicle constructed or adapted to seat fewer than nine passengers which is made available with a driver . . . for hire for the purpose of carrying passengers, other than a licensed taxi or a public service vehicle; . . .</p>	<p>Yes</p> <p>“made available with a <b>driver</b>”</p>	London
Local Government (Miscellaneous Provisions) act 1976, section 80:	<p>“Private hire vehicle” means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle ... which is provided for hire with the services of a driver for the purpose of carrying passengers.</p>	<p>Yes</p> <p>“with the services of a <b>driver</b>”</p>	England and Wales (excluding London)

<u>Public Service Vehicles</u>			
<u>Provision</u>	<u>Definition</u>	<u>Express mention of "driver"</u>	<u>Extent</u>
Public Passenger Vehicles Act 1981, section 1:	<p>(1)... in this Act "public service vehicle" means a motor vehicle (other than a tramcar) which—</p> <p>(a) being a vehicle adapted to carry more than eight passengers, is used for carrying passengers for hire or reward; or</p> <p>(b) being a vehicle not so adapted, is used for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers.</p>	No	Scotland,  England and Wales

### Passenger licensing provisions that apply expressly to drivers

1.31 The second table includes a sample of other provisions from existing passenger licensing legislation. We identified provisions which explicitly refer to drivers and have no clear applicability in the context of a NUIC passenger service. These provisions could give rise to potential gaps in regulation if applied to services with no driver or user-in-charge. We note for public service vehicles that the crucial definition of an "operator" is linked to a driver and would be difficult to apply to a NUIC passenger service. The relevant parts of the provisions which refer to drivers are in bold and italics.

**Table 2**

<u>Sample of existing passenger licensing provisions with express mention of "driver"</u>	
<u>Taxi Legislation</u>	
<u>Provision</u>	<u>Extent</u>
<p><u>Civic Government (Scotland) Act 1982, section 13:</u></p> <p>(1) A licence, to be known as a <b><i>"taxi driver's licence"</i></b> or, as the case may be, a <b><i>"private hire car driver's licence"</i></b>, shall, subject to subsection (2) below, <b><i>be required for driving or otherwise having charge of a taxi or private hire car.</i></b></p>	Scotland



<p><u>Civic Government (Scotland) Act 1982, section 10:</u></p> <p>(2) A licensing authority shall not grant or renew a taxi licence or private hire car licence<sup>21</sup> unless they are satisfied that the vehicle to which the licence is to relate is suitable in type, size and design for use as a taxi or private hire car, as the case may be, and is safe for that use, and that there is in force in relation to the vehicle such a policy of insurance or such security as complies with Part VI of the Road Traffic Act 1972.</p> <p>(3) Without prejudice to paragraph 5 of Schedule 1 to this Act, the grant of a taxi licence may be refused by a licensing authority for the purpose of limiting the number of taxis in respect of which licences are granted by them if, but only if, they are satisfied that there is no significant demand for the services of taxis in their area which is unmet.</p>	Scotland
<p><u>Civic Government (Scotland) Act 1982, section 21:</u></p> <p>(3) Subsection (1)(b) above does not apply to the operation of a vehicle within an area in respect of which its operation or its driver is not licensed if there are in force—</p> <p>(i) in respect of the vehicle, a licence under section 37 of the Town Police Clauses Act 1847 (licensing of hackney carriages) or section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (licensing of private hire vehicles); <b>and</b></p> <p>(ii) <b>in respect of its driver</b>, a licence under section 46 of the said Act of 1847 (licensing of hackney carriage drivers) or, as the case may be, section 51 of the said Act of 1976 (licensing of drivers of private hire vehicles).</p>	Scotland
<p><u>Metropolitan Public Carriage Act 1869, section 8:</u></p> <p>(2) No hackney carriage shall ply for hire within the limits of this Act <b>unless under the charge of a driver</b> having a licence under this section from Transport for London.</p>	London

<sup>21</sup> Both “taxi” and “private hire car” are defined under the Act in terms of a “hire car”, which means “a motor vehicle with a driver...which is, with a view to profit, available for hire by the public for conveyance”: Civic Government (Scotland) Act 1982, s 23(1) and (2).

<p><u>Town Police Clauses Act 1847, section 47:</u></p> <p><b><i>If any person acts as such driver as aforesaid without having obtained such licence</i></b>, or during the time that his licence is suspended, or if he lend or part with his licence, except to the proprietor of the hackney carriage, or if the proprietor of any such hackney carriage employ any person as the driver thereof who has not obtained such licence, or during the time that his licence is suspended, as herein-after provided, <b><i>every such driver and every such proprietor shall for every such offence respectively be liable</i></b> to a penalty not exceeding level 3 on the standard scale.<sup>22</sup>.</p>	England and Wales (excluding London)
<p><u>Local Government (Miscellaneous Provisions) Act 1976, section 75:</u></p> <p>(2)(B) Paragraphs (a), (b) and (c) of section 46(1) of this Act shall not apply to the use or driving of a vehicle, or to the employment of a driver of a vehicle, if—</p> <p>(a) a London PHV licence issued under section 7 of the Private Hire Vehicles (London) Act 1998 is in force in relation to that vehicle; <b><i>and</i></b></p> <p>(b) <b><i>the driver of the vehicle holds a London PHV driver's licence</i></b> issued under section 13 of that Act</p>	England and Wales (excluding London)
<u>Private Hire Licensing</u>	
<p><u>Civic Government (Scotland) Act 1982, section 13:</u></p> <p>(1) A licence, to be known as a <b><i>“taxi driver's licence”</i></b> or, as the case may be, a <b><i>“private hire car driver's licence”</i></b>, shall, subject to subsection (2) below, <b><i>be required for driving or otherwise having charge of a taxi or private hire car.</i></b></p>	Scotland
<p><u>Local Government (Miscellaneous Provisions) 1976, section 51:</u></p> <p>(1) ...a district council shall, on the receipt of an application from any person <b><i>for the grant to that person of a licence to drive</i></b> private hire vehicles, grant to that person a driver's licence</p>	England and Wales (excluding London)
<p><u>Private Hire Vehicles (London) Act 1998, section 4(2):</u></p> <p>(2) A London PHV operator shall secure that any vehicle which is provided by him for carrying out a private hire booking accepted by him in London is—</p> <p>(a) a vehicle for which a London PHV licence is in force driven by a person holding a London PHV driver's licence; or</p> <p>(b) a London cab driven by a person holding a London cab driver's licence.</p>	London

<sup>22</sup> For convictions after 1 December 2020, level 3 on the standard scale is up to £1000: Sentencing Act 2020, ss 2(1) and 122.

<u>Private Hire Vehicles (London) Act 1998, section 12:</u>  (1) No vehicle shall be used as a private hire vehicle on a road in London <b><i>unless the driver</i></b> holds a private hire vehicle driver's licence.		London
<u>Public Service Vehicle Licensing</u>		
Public Passenger Vehicles Act 1981, section 81:	(1) For the purposes of this Act—  (a) regulations may make provision as to the person who is to be regarded as the operator of a vehicle which is made available by one holder of a PSV operator's licence to another under a hiring arrangement; and  (b) where regulations under paragraph (a) above do not apply, the operator of a vehicle is—  (i) the <b>driver</b> , if he owns the vehicle; and  (ii) in any other case, the person for whom the <b>driver</b> works ...	Scotland,  England and Wales

### Passenger licensing provisions that do not refer to a driver

- 1.32 The third table sets out how certain existing provisions in passenger licensing legislation could remain operational as they stand in the context of NUIC passenger services. These provisions do not explicitly require a driver and focus instead on vehicle requirements. The person or activity that the provision applies to is highlighted in bold italics.

**Table 3**

<u>Sample provisions with no express reference to a “driver”</u>	
<u>Taxi Licensing</u>	
<u>Provision</u>	<u>Extent</u>
<u>Town Police Clauses Act 1847, section 45:</u>  If the <b><i>proprietor or part proprietor of any carriage</i></b> , ... permits the same to be used as a hackney carriage plying for hire within the prescribed distance without having obtained a licence as aforesaid for such carriage, or during the time that such licence is suspended as hereinafter provided, ..., every such person so offending shall for every such offence be liable to a penalty ....	England and Wales (excluding London)

<p><u>Town Police Clauses Act 1847, section 41:</u></p> <p>In every such licence shall be specified the name and surname and place of abode of every person who is a <b><i>proprietor or part proprietor of the hackney carriage</i></b> in respect of which such licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of any such carriage, and also the number of such licence which shall correspond with the number to be painted or marked on the plates to be fixed on such carriage, together with such other particulars as the commissioners think fit.</p>	<p>England and Wales (excluding London)</p>
<p><u>London Cab Order 1934, article 5:</u></p> <p>(1) Every application for a cab licence shall be made in such form, and include such declarations and information as Transport for London may require.</p> <p>(2) Where the cab is jointly owned or owned by a partnership firm or a limited liability company, the application shall be made in the name of one of the joint owners or by the senior partner of the firm, or the Secretary, Manager or other duly authorised officer of the company, as the case may be, and that person shall for the purposes of this Part of this Order be deemed to be the applicant for the licence, and the licence if granted shall be issued to him.</p> <p>(3) Transport for London may in its discretion require applicants to provide different information depending on whether or not the applicant has previously held or currently holds a cab licence or cab drivers licence.</p>	<p>London</p>
<p><u>Metropolitan Public Carriage Act 1869, section 6:</u></p> <p>(1) <b><i>Transport for London</i></b> shall have the function of licensing to ply for hire within the limits of this Act hackney carriages, to be distinguished in such manner as may be prescribed.</p> <p>(2) A licence under this section may—</p> <p>(a) be granted on such conditions,</p> <p>(b) be in such form,</p> <p>(c) be subject to revocation or suspension in such event, and</p> <p>(d) generally be dealt with in such manner, as may be prescribed</p>	<p>London</p>

<u>Private Hire Licensing</u>	
<u>Provision</u>	<u>Extent</u>
<p><u>Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 1982, Schedule 1, Explanatory Note:</u></p> <p>This Order designates the use of premises for the carrying on of a business, part of which consists of taking bookings from members of the public for the hire of taxis or private hire cars, as <b><i>an activity for which a licence is required</i></b> under the Civic Government (Scotland) Act 1982 (“the Act”) (article 2). The licensing regime does not apply if the number of vehicles for which bookings are taken is less than 4.</p>	Scotland
<p><u>Private Hire Vehicles (London) Act 1998, section 4(1):</u></p> <p>(1) The <b><i>holder of a London PHV operator's licence</i></b> (in this Act referred to as a “London PHV operator”) shall not in London accept a private hire booking other than at an operating centre specified in his licence.</p>	London
<p><u>Local Government (Miscellaneous Provisions) Act 1976, section 46(1)(d):</u></p> <p>no <b><i>person</i></b> shall in a controlled district operate any vehicle as a private hire vehicle without having a current [operator] licence under section 55 of this Act.</p>	England and Wales
<p><u>Local Government (Miscellaneous Provisions) 1976, section 48:</u></p> <p>(1) ... a <b><i>district council</i></b> may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence.</p>	England and Wales
<u>Public Service Vehicles</u>	
<u>Provision</u>	<u>Extent</u>
<p><u>Public Passenger Vehicles Act 1981, section 12:</u></p> <p>(1) A public service vehicle shall not be used on a road for carrying passengers for hire or reward except under a <b><i>PSV operator's licence</i></b> granted in accordance with the following provisions of this Part of this Act</p>	<p>Scotland,</p> <p>England and Wales</p>