



Department
for Transport

From the Minister of State
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Sir Edward Leigh and Adrian Bailey
The Automated and Electric Vehicles Bill
Committee
House of Commons
London
SW1A 0AA

Dear Edward and Adrian,

I said that I would write to the Committee following the useful and productive discussions on 2 November. I thought it may be helpful to clarify the interrelation between the current Road Traffic Act insurance framework and the provisions within the Automated and Electric Vehicles Bill, along with the scope of Clause 3, which deals with contributory negligence.

Current Framework

Part IV of the Road Traffic Act 1988 (RTA) requires the user of the vehicle, the driver, to be insured against liability to third parties (compulsory motor insurance). Where an incident involves the fault of the driver, the insurer covering the driver pays the third-party victim.

Automated and Electric Vehicles Bill

This Bill will extend the framework for compulsory motor vehicle insurance to cover the use of automated vehicles, to ensure that compensation claims continue to be paid quickly, fairly, and easily, in line with longstanding insurance practice.

An automated vehicle (AV) that, at the time of a collision, is not driving itself will be in scope of the current RTA insurance framework. The insurer must pay to any third-party victim if the driver was at fault.

An AV that is in self-driving mode when the collision happens will be in scope of clause 2 of the Bill. If the AV caused the incident the insurer

must pay to the third-party victim and to the driver in the AV if injured. This is subject to clause 3 on contributory negligence etc – this is addressed below.

If the driver is in the process of transferring control to the vehicle, but the transition has not been completed at the time of the collision, the vehicle will not be driving itself at that point so the incident will be covered by the RTA framework, not the AEV Bill framework.

Conversely, if an automated vehicle offers to pass back control to the driver and the driver has not accepted the offer (for example if asleep or otherwise legitimately engaged in another activity) the vehicle will still be in self-driving mode and will be covered by the AEV Bill framework.

It is important to highlight that a vehicle which has assistance systems switched on but which still relies on the driver to be ready to take control when it requests them to do so is not an automated vehicle under the Bill (see definition of ‘driving itself’). The driver still will retain overall responsibility for the safe execution of the driving task; regardless of the complexity of assistance the vehicle is providing.

This is reflected in Rule 150 of the Highway Code, ‘*You MUST exercise proper control of your vehicle at all times. Do not rely on driver assistance systems*’.

Contributory negligence

Turning to contributory negligence, if the injured party is partly at fault, clause 3(1) applies and adopts the normal contributory negligence principles to limit the insurer’s liability to the injured party.

The injured party could be the driver in the automated vehicle or another person such as the driver in another vehicle involved with the collision.

If the automated vehicle did not cause the collision, for example if the driver in the other vehicle was wholly at fault, then the insurer of the automated vehicle is not liable.

It is the policy intent of the Bill that it mirrors existing processes as closely as possible without making complex legislative changes to the existing framework. The process of determining and apportioning

liability in the event of an incident will remain the same as it is now, with the courts ultimately making judgments based on the facts.

‘Drive other car’ policies

I have received a question about how a ‘drive other car’ insurance policy would work with the provisions set out in the Automated and Electric Vehicles Bill, and thought it may be helpful if I provided some detail for the committee members.

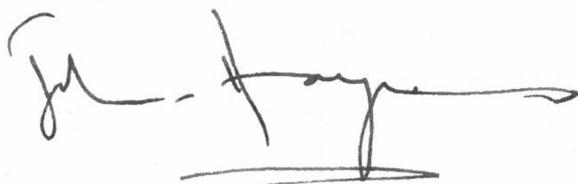
When a driver gets insurance, it is often to drive a specific vehicle. Some, but not all, fully comprehensive policies offer ‘drive other car’ clauses that allow the policy holder to occasionally drive other cars. ‘Drive other car’ cover may be offered as standard, as an optional extra, may not be available at all, or may impose specific conditions.

In general, when a ‘drive other car’ policy holder drives someone else’s automated car, relying on their drive other car policy, their insurer will be the relevant insurer under the Bill’s provisions if there is a collision when the vehicle is in automated mode. The ‘drive other’ car insurer will also be the relevant insurer for the purposes of the Road Traffic Act 1988 compulsory insurance regime if the vehicle is not in automated mode at the time of the collision. Should their insurance policy not allow them to drive the automated vehicle and should they also not be covered to drive the vehicle by the owner’s policy or any other policy, then they would be an uninsured driver.

It is important to note that ‘drive other car’ policies are not legislated for, though they must, of course, comply with the insurance provisions within the Road Traffic Act 1988.

By bringing the AEV Bill now, this government is giving insurers time to review their terms and conditions – including for ‘drive other car’ policies – and ensure they work when automated vehicles come to the market.

I hope the Committee finds this useful and informative.

A handwritten signature in black ink, appearing to read 'John Hayes', with a horizontal line underneath.

THE RT HON JOHN HAYES CBE MP