

Department for Transport

Future of Transport Regulatory Review Call for Evidence

Legalising E-scooter Rental Trials

A response by the Association of Personal Injury Lawyers

June 2020



Introduction

APIL welcomes the opportunity to respond to the Department for Transport's call for evidence on the future of transport regulatory review. With new methods of transport likely to become more popular in the years to come, it is important that there is regulation in place to enable people to travel safely. In relation to micromobility vehicles in particular, it is clear that there is a risk of serious injury or fatalities – both to the users themselves and others. The risk of injury to others will not be as high as the risk posed by standard motor vehicles, but it is nonetheless important that if these vehicles are legalised for use on the roads, they must be properly regulated and users should be insured. It is acknowledged that users of these vehicles are themselves vulnerable, and far more likely to be injured in an accident than a motorist, and it is vital for the user's safety, and for the safety of other vulnerable road users, that minimum safety standards – relating to both the vehicle and the user- are put in place.

All road users

We believe that it is sensible for all regular road users to hold some form of insurance, to ensure that if they become involved in an accident, those who are injured are able to access compensation. Nevertheless, as highlighted by the Government's recent announcement that – in order to take advantage of the improvements in air quality due to the Covid-19 lockdown - trials of e-scooter rentals in cities will be fast tracked and rolled out more widely than previously planned, it is likely that in the future fewer people will use cars in favour of alternative methods of transport. This change in behaviour should be accompanied by a push to ensure that the majority of, if not all, road users have insurance. We appreciate that there are difficulties with making insurance compulsory for all road users. A situation whereby car usage falls, but then a large percentage of other road users are then travelling around uninsured, however, would be deeply unsatisfactory.

Users of micromobility vehicles

We believe that those operating micromobility vehicles that are capable of independent propulsion should only be allowed to do so on the roads if they have insurance in place. There are features of certain micromobility vehicles such as the smaller wheels on e-scooters; the speeds that people can achieve with minimum effort; and the distances that the vehicles are likely to be used to travel, which make them more prone to being involved in accidents than, for example, standard bicycles. Therefore, mandated insurance for users of micromobility vehicles is vital. Ensuring that there is insurance in place will mean that those who are injured will be able to be properly compensated. We welcome the Government's decision to treat e-scooters as motor vehicles during the rental trials, and that users must have insurance in order to ride them. We strongly suggest that this requirement remains in place once the trials are concluded.

We suggest that insurance for micromobility vehicles could be offered to most as an “add-on” to existing home or car insurance policies, although this will not be a solution for all and

a stand-alone product would need to be developed, too. We do not anticipate that insurance of this type would be expensive, because (1) the vehicles will be less expensive to repair or replace, and (2) in accidents between micromobility vehicles and standard vehicles, there is a much lower risk of injury to the occupants of standard vehicles. Micromobility vehicles operating as part of a rental scheme should be insured via the scheme itself – those renting vehicles in this way should not be expected to hold insurance in case they decide to rent a micromobility vehicle.

While we are not advocating for compulsory insurance for cyclists, if an add-on policy for existing home/car insurance customers is developed which would allow for micromobility vehicles to be insured, we see no reason why this cannot also be made available to those who wish to be insured to cycle on the roads.

We have responded only to those questions within our remit, namely on the safety and regulation of micromobility vehicles.

Q2.1 Do you think micromobility vehicles should be permitted on the road? Please explain why.

Micromobility vehicles should be permitted onto the roads, but it is vital that there are strict minimum safety and construction standards that must be met by the vehicles to ensure that they are roadworthy.

There is also uncertainty at present over the legality of micromobility vehicles – it is likely that many users do not appreciate that they are not allowed to use these vehicles on the road or pavement. Once the vehicles are legalised, the public must be informed, clearly, which micromobility vehicles can be used, and which vehicles are prohibited.

There must also be efforts to change driver attitudes to other road users. Unfortunately, the infrastructure of the UK's roads is not such that those riding micromobility vehicles will always be able to travel in a separate lane or path to other motor vehicles. As seen with cyclists, drivers do not always give these road users the space that they need when passing them. There needs to be education for drivers, and we call for awareness of how to act around micromobility vehicle users to be included as part of motor vehicle driving tests, and as part of the re-education process when someone is convicted of a relevant road traffic offence.

Q2.2 What are the benefits and risks of micromobility vehicle usage

We are not best placed to comment on the benefits and risks of micromobility vehicle usage, aside from the points we make within this response, however we acknowledge that more innovative and environmentally friendly ways of, for example, delivering packages are needed and should be welcomed. However, we reiterate the importance of ensuring that these vehicles are insured, so that if harm is caused from their usage, people can access full and proper compensation.

Q2.4 Which micromobility vehicles should be permitted?

We do not have any particular views on which individual micromobility vehicles should be permitted, but all micromobility vehicles should be required to meet the same minimum safety standards before they are permitted onto the roads. Our views on the minimum vehicle and user requirements are set out below. It must be made clear to the public that if a vehicle does not meet the minimum safety standards, then it will be illegal.

Q2.5 Mobility scooters and pedestrian operated street cleaning vehicles are already permitted on the footway. Should any other micromobility vehicles be permitted to use the pavement or pedestrian areas? If so, which types of devices should be permitted and in what circumstances?

We do not believe that micromobility vehicles should simply be permitted to use the pavement or pedestrian areas without restriction. However, there may be some circumstances where it would be beneficial to allow certain micromobility vehicles to operate on the pavement in specifically designed and well-marked areas or lanes. Minimum standards must be met and insurance must be in place before micromobility scooters are permitted to use the pavement or pedestrian areas. As we have seen from the use of mobility scooters in pedestrianised areas, motorised vehicles within pedestrian areas have the potential to cause serious harm. Mobility scooters were involved in 9 deaths in 2014¹, and while it is unclear whether the deaths were the drivers themselves or others hit by the scooters, this illustrates that there is the potential for these vehicles to cause harm both to those who drive them, and other vulnerable road users. If harm does occur, the person injured should be able to access compensation to put them back as closely as possible to the situation they were in before they were injured.

Q2.6 a. What do you think the minimum standards for micromobility vehicles should be?

b. Should different standards be set for different types of micromobility vehicle? Please provide evidence.

We are unable to comment in detail on the exact specifications for micromobility vehicles, but suggest that there should be a single set of standards that applies to all micromobility vehicles, to ensure clarity and prevent confusion over what is and is not legal. There should be minimum standards in place to ensure safety, including a maximum speed and weight. There should also be a restriction on the speed that micromobility vehicles can travel if they are being used in a mixed space where other vulnerable road users are present – in these circumstances, users of micromobility vehicles should be limited to 12.5 mph (the speed that the Government proposes to limit e-scooters to during trials, and the speed limit in other countries such as France and Germany).

Q2.8

In your opinion, what should the requirements be for micromobility users with regard to:

Vehicle approval

There should be a system in place to ensure that vehicles that are released for sale meet the minimum standards as set out above. As above, there should be single standard for all micromobility vehicles, and an approval system will demonstrate to consumers that the vehicles on the market meet these required standards.

Vehicle registration and taxation

We have no comments on whether these vehicles should be taxed, but consideration will need to be given to the registration of micromobility vehicles capable of independent propulsion, in order to ensure the enforcement of compulsory insurance. As above, we suggest that the majority of these vehicles can be insured through an add-on to existing home or car insurance policies, so there will be no need for the insurance to be linked directly to the vehicle. However, there will need to be a separate insurance product available for people to purchase if they do not have an existing home or car insurance policy, and this would likely require individual registration of the vehicle. Vehicle registration would assist in the enforcement of compulsory insurance, and would allow for the Motor Insurers' Bureau to operate a form of their uninsured/untraced drivers scheme for micromobility vehicles.

¹ <https://www.telegraph.co.uk/news/uknews/law-and-order/11932407/Mobility-scooters-involved-in-nine-road-deaths-last-year.html>

User driving licence

We suggest that those who wish to use a micromobility vehicle on public roads should be required to undertake a proficiency test, akin to a driving theory test, if they do not already have an existing full or provisional driving licence. These vehicles are motorised, so should not be operated without the user being able to demonstrate competence in operating the vehicle on the road.

Insurance

As above, we believe that as these vehicles become more popular, and the way that people move around changes, this should not lead to a reduction in the percentage of road users being insured. It is sensible for all regular road users to be properly insured. Insurance ensures that those who are injured can be properly compensated. Due to the nature of micromobility vehicles – motorised vehicles capable of independent propulsion that can reach and maintain speed with little effort and can be used to travel fairly long distances - it is important that users have insurance in place, and that the requirement to do so is compulsory. People who are injured by these vehicles should not be forced to pursue a lengthy, costly and potentially unsuccessful claim through the courts - there should be insurance in place so that they can be properly compensated as quickly as possible. Those using micromobility vehicles capable of independent propulsion on the roads will need to be able to demonstrate that they have some form of insurance in place – either a standalone policy, or as an add-on to an existing car or home insurance policy. Those taking advantage of rental schemes within cities would be provided with insurance cover as part of their rental arrangement.

We welcome the Government's decision to treat e-scooters as motor vehicles during rental trials, meaning that requirements to have insurance and the correct type of driving license will continue to apply. For the reasons set out above, we suggest that these requirements remain in place once the trials are over and micromobility vehicles become legal for use on a wider scale.

Helmet use

We recommend that helmet use is made compulsory for all road users travelling on (as opposed to in) a vehicle/mode of transport. We believe that the likely widespread introduction of micromobility vehicles, which are likely to share the same space on the road as non-propelled bicycles, is cause to introduce compulsory helmet use for all.

We continue to maintain that there should be greater investment in cycle infrastructure throughout the UK, and that drivers should be trained on how to safely pass both cycles and micromobility vehicles as part of their training and any subsequent driver awareness courses that they may attend.

Minimum age

Given that we suggest that people should be required to either hold a provisional or full driving license, or undertake a proficiency test, we suggest that the minimum age for using micromobility vehicles on the road should be 16.

Where they should be permitted to operate

As above, we do not believe that micromobility vehicles should be permitted to operate on the pavements in an unfettered manner. These vehicles should only be allowed to operate on the pavement if there is a specific designated lane to cater for their use.

Speed limits

Where these vehicles are operating in a space where there are pedestrians or other

vulnerable road users, there should be a speed limit of 12.5 mph for all vehicles driven in this space. There should also be a maximum speed that these vehicles can reach, as part of the minimum standards for manufacture.

About APIL

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation which has worked for 30 years to help injured people gain the access to justice they need, and to which they are entitled. We have more than 3,000 members who are committed to supporting the association's aims, and all are signed up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives, paralegals and some academics.

Any enquiries in respect of this response should be addressed, in the first instance, to:

Abi Jennings

Head of Legal Affairs

APIL

3, Alder Court, Rennie Hogg Road, Nottingham, NG2 1RX

Tel: 0115 958 0585

e-mail: abi.jennings@apil.org.uk