

Micro-mobility, E-scooters and the Future of Personal Injury Claims

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Introduction

- Pros and cons of micro-mobility
- Rental Trials
- Private e-scooters
- Liability and novel claims
- E-scooters and illegality
- Insurance considerations



Environment

- All needs to be seen within the prism of the climate emergency
- Air pollution top environmental risk to human health in UK
- Transport key pollutant
- Inquest of Ella Adoo-Kissi-Debrah ruled air pollution made “material contribution” to her death



Micro-Mobility - Pros

- Cheaper to run for short journeys
- Environmental impact / clean air
- Mental and physical health
- Integrated transport solutions
- Reduction of congestion in city centres etc
- Pandemic has accelerated need to explore solutions

Micro-Mobility - Cons

- Higher risk of accidents / injury
- Lack of product and safety regulation
- Driver inexperience / inebriation
- Other road user inexperience
- No compulsory insurance
- Environmental impact
- Storage and theft
- Vandalism and parking



E-Scooter Trials

- Commenced August 2020
- Widespread across UK – approx. 40 trials taking place
- Only legal way to ride
- Different considerations in different areas
 - Differences in road layouts / congestion
 - Misuse of vehicles
 - Parking / docking



E-Scooter Trials – Regulatory Requirements

- E-scooters themselves subject to minimum technical and speed requirements
- Compulsory insurance
- Rules about when/where/how scooters are used
- Rider requirements:
 - Full or provisional driving licence (i.e. no under 16s)
 - No drink-scooting
 - One person at a time



Hire Trial in Action

- Nevron – Newcastle
 - Spate of arrests
 - Curfew 11pm – 5am worked
- Voi
 - More than 1 million rides over 6 months
 - Reaction test at night or locked

Vulnerable road users

- Hazards for those with reduced mobility
- Hazards for those with visual impairment
 - Radio 4 – “In touch”



Privately-Owned E-Scooters

- Illegal except on private land
 - Facing crackdowns from some police forces
- But widespread anyway
- No current regulatory framework
- No current appropriate insurance policies

- Are they going to be legalised?



Liability Considerations

- Standard RTA questions:
 - Where does fault lie?
 - Multi-party accidents?
 - Highway Code / rules of the road?
- Contributory negligence
 - How will “causative potency” work?
 - “normal rule” of vehicle being more blameworthy
 - Car vs e-scooter
 - Pedestrian vs e-scooter?



E-scooter Fatal Accident

- Emily Hartridge died 12 July 2019
- Thrown under lorry
- Fault of scooter user
- Accidental death ruled by Coroner



Novel Claims

- New categories of claims:
 - E-scooter vs e-scooter
 - E-scooter vs pedestrian
 - E-scooter vs cyclist
 - E-scooter vs no-one!
 - Highways claims
 - Product liability



Illegality / *Ex turpi causa*

- Claimants shouldn't profit from their illegal acts
- Is civil defence of illegality available in claims arising out of e-scooter use?
- Leading case: *Patel v Mirza* [2016] UKSC 42

Patel v Mirza - Considerations

- The underlying purpose of the prohibition which has been transgressed and whether that purpose will be enhanced by a denial of the claim
- Any other relevant public policy on which the denial of a claim may have an impact
- Whether denial of the claim would be a proportionate response to the illegality, bearing in mind that punishment is a matter for the criminal courts

Highway Code

- October 2020 consultation
 - Hierarchy road users
 - Pedestrian and cycling priority
 - Overtaking speeds

Insurance Considerations

- Cycleplan underwritten by Aviva to offer insurance for e-scooters but only on private land
- Insurance for younger users?
- Third party coverage?
- Injury to rider?
- Compulsory helmet/PPE?

Questions?

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