

# Written evidence submitted by the British Insurance Brokers' Association

The British Insurance Brokers' Association (BIBA) is the UK's leading general insurance intermediary organisation representing the interests of insurance brokers, intermediaries and their customers.

BIBA membership includes more than 1800 regulated firms, employing more than 100,000 staff. General insurance brokers contribute 1% of GDP to the UK economy; they arrange 67% of all general insurance with a premium totalling £66.5bn and 81% of all commercial insurance business. Insurance brokers put their customers' interests first, providing advice, access to suitable insurance protection and risk management.

BIBA receives more than 600,000 enquiries per year to its Find Insurance services, online and via the telephone which are directed to member insurance broking firms.

BIBA is the voice of the sector advising members, the regulators, consumer bodies and other stakeholders on key insurance issues.

## Introduction and Executive Summary

BIBA's 2020 Manifesto calls for Government to consider where and how e-scooters can be used legally and to work with BIBA and our members on discussing the necessary liability insurance solutions and limits for the new risks arising from the use of micro-mobility. Therefore, we welcome the Transport Committee's call for evidence into e-scooters.

- A- **USE** BIBA support the use of certain (see below) e-scooters on cycles lanes and public roads, But NOT on pavements.
- B- **COMPENSATION FOR VICTIMS** It is vital to legislate in order to have a compulsory third-party compensation system in place for the victims of e-scooter incidents. BIBA suggests a new low-level minimal insurance requirement unique to this new form of travel of £2M to £5M third party liability. We could resolve the significant vehicle type/ private land arguments at the same time
- C- **SAFETY** Due to the high number of injuries caused by e-scooters we set out a number of ideas for a sensible approach including compulsory use of cycle helmets along with requirements to have lights, alerting devices, a maximum speed of 12.5mph and maximum power of 350W. We also believe a compulsory on-line safety assessment is required.
- D- **LIGHT TOUCH** – To encourage the greater uptake of e-scooters we would not require a driving licence or motorcycle helmet or unlimited Road Traffic Act Insurance.

## BIBA's response to the transport committees' questions

### 1. Whether the legislation for e-scooters is up to date and appropriate.

The current legislation is neither up to date nor appropriate as evidenced by the fact it is illegal to use an e-scooter as they do not meet type-approval requirements.

There is also the issue that 'a mechanically propelled vehicle intended or adapted for use on the road' (as described in the Road Traffic Act 1988 (TRA)) requires a driving licence.

This is an opportunity to change the law to legalise e-scooters. The Road Traffic Act is in urgent need of updating anyway due to the negative consequences that have arisen following the legal cases of Vnuk, Lewis v Tindale and Lewington v MIB and the unfair circumstances that have arisen which see innocent motorists paying for these claims (via the levy on premiums from the MIB).

Without the RTA being updated we will continue to see innocent motorists footing the bill for claims caused by many different types of uninsured vehicles (including ride on lawnmowers) and even on private land. This was never the intention of the Road Traffic Act.

With Brexit we have an opportunity for the UK government to diverge from EU law (in regard to Vnuk) and make a better, fairer, more modern Road Traffic Act that can include provision for legalising e-scooters.

BIBA strongly urges the Transport Committee to push for change to ensure the right balance so that the users of vehicles designed for and used on public roads/ places require some form of compulsory insurance and that these compensation costs do not fall on innocent motorists via the MIB levy. Also, vehicles that are not designed for use on the road, such as ride-on lawn mowers, and areas, such as private land, can also be taken out of scope altogether.

It is important to note that motor vehicles as described under the RTA require compulsory third-party motor insurance and this is BIBA's main interest in this subject.

We have consulted our members on this issue and believe there is an urgent need to decide how and who funds the payments for loss and injury suffered by the victims of e-scooter incidents.

We believe it is fundamentally unfair to continue to ask innocent motorists to pay for this via the MIB levy on their premium and instead would like the Transport Committee to consider alternative funding models.

We asked expert motor insurance brokers to consider the funding models that seem fairest and would be most practical.

The most popular approach is for a low-level compulsory minimum insurance requirement of between £2M and £5M for e-scooters. We do not believe there is a need for unlimited RTA cover as exists for a moped, car or commercial vehicle as e-scooters have far less kinetic energy and thus are likely to cause a much lower level of loss or injury. We also want these policies to be available at a much lower price than a standard motor insurance policy. This low-level minimum approach would be purely for e-scooters that would ensure the 'user pays' and remove the unfair burden from innocent motorists.

We should also remember that an e-scooter rider could be sued for negligence if causing loss or injury, so it is in their interest to have insurance protection of their financial liability. Even if the MIB pay a third party initially, the MIB can pursue the negligent e-scooter user for recovery of their outlay. Therefore, we strongly recommend designing a new two-tier insurance model that protects both the user and the victim from a sudden financial shock. Tier one with a minimum £2-£5M e-scooter cover, and Tier 2 – the existing unlimited liability for all other motor vehicles under the RTA definition.

Optional non legislative cover like theft and accidental damage, breakdown and higher liability limits could also be offered by the insurance market leading to competition, improving benefits, and keeping premiums at lower levels.

A second way of collecting a fund to pay compensation for victim of e-scooters could be that VAT or similar style tax on new scooter sales could pay towards a fund– this way the ‘user still pays’, although there are some considerations to be worked through including how the second-hand market could contribute. There could also be unintentional tax avoidance if purchased from overseas, but a tax at point of sale could take these issues into account. Note this option is our second choice behind a low minimum level of compulsory third-party insurance.

BIBA also believes a simple registration/ identification system could be introduced as seen on some EU e-scooter hire systems. A simple database accounting for these could help with issues of theft and enforcement. This could be managed by a small chip or barcode identification plate. A new simple registration system could relate to the system from registering drones.

It is important to have an e-scooter registration system in order to identify which e-scooter is actually insured. This would also help with enforcement.

## **2 To what extent e-scooters have positive benefits, for instance relating to congestion and promoting more sustainable forms of transport.**

We believe that there are positive benefits to be had from the use of e-scooters including low emissions and low-cost route into ‘powered transport’. This is why we have included this in our 2020 Manifesto.

## **3. Where in the urban environment e-scooters could be used (e.g. road, pavement, cycle lanes), and how this could impact on other road users and pedestrians, including people who have visual impairments or use mobility aids.**

BIBA consulted our members including leading motor insurance brokers. Members were overwhelmingly supportive of e-scooters being legalised for use on the roads (like other forms of two-wheel transport) and in cycle lanes. Subject to caveats around having in place a compensation system for victims, and on design and safety of which scooters qualify to be legalised.

BIBA members do **not** believe that e-scooters should be permitted to be used on pavements due to the numerous significant dangers to pedestrians.

## **4. Whether there should be advice or compulsory requirements to use specific safety equipment when using an e-scooter;**

It is important to note that with around 19,000 cyclists killed or injured each year and around 40% with head injuries, helmets are a key issue. Members do not suggest the same standard of helmet as for moped riders, but instead to have a mandatory requirement for helmets similar in form to cyclist helmets. We understand that helmets reduce head injuries by around 80%.

With e-scooter incident rates in other countries like the US indicating a higher number of accidents compared to cyclists, it is even more important to focus on safety.

In consulting with our expert motor insurance members, most respondents state they believed a mandatory educational on-line safety assessment must be taken and a pass mark achieved (along the lines of the government driving theory test).

This would ensure a level of knowledge for non-car licence holders to be able to appreciate the dangers and laws of using a small powered transporter on public roads.

Users in possession of a full car driving licence should not be required to take this.

Members also believe a minimum age of use should be a consideration – especially if used on roads.

#### **5. Whether there should be safety and environmental regulation for the build of e-scooters, and what this might entail.**

Regarding the scooters themselves most BIBA members felt lights should be compulsory – we have seen these built into the design of scooters built by Bird and so believe this is easily achievable.

Members also responded to advise it is also important to have an alerting advice such as a bell.

We agree with the Department for Transport proposal to restrict speeds to 12.5mph.

Restrict maximum power output to no more than 350w.

The default position of the hand-operated accelerator should automatically switch to off when not being used.

Minimum wheel size as per the international transport forum is also an important consideration.

#### **6. The experience of other countries where e-scooters are legal on the roads**

Other countries have differing and inconsistent approaches to insurance, licensing, helmets etc. The one common feature is the fact that e-scooter users are extremely vulnerable and the greater the protection afforded, the fewer fatal or serious injury cases will occur.

BIBA would be delighted to discuss these issues further with the Transport Committee and are grateful for the opportunity to input into this call for evidence

*June 2020*