

Written evidence submitted by BLM LLP

BLM is a leading risk and insurance law firm which acts for a wide range of insurance companies providing motor and other policies in the UK and Ireland. Our 200 partners and 1500 staff are based in 13 offices in all parts of the UK and Ireland. In addition to defending claims and managing litigation, we also take part in the ongoing debate which shapes the legal environment in which we and our clients operate. A key focus has been the change in the interpretation of the scope of compulsory motor insurance as understood by both the European Motor Insurance Directive (MID) and the Road Traffic Act 1988 (RTA), which is illustrated by the line of cases from *Vnuk v Zavarovalnica Triglav C-162/13* and, more recently, by the English case *Lewis v Tindale and MIB* [2019] EWCA Civ 909 (our blog about *Lewis* may be consulted [here](#)).

The Committee's current inquiry <https://committees.parliament.uk/committee/153/transport-committee/news/145926/escooters-inquiry-launched/> poses the following questions:

- *whether the legislation for e-scooters is up to date and appropriate;*
- *to what extent e-scooters have positive benefits, for instance relating to congestion and promoting more sustainable forms of transport;*
- *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;*
- *whether there should be advice or compulsory requirements to use specific safety equipment when using an e-scooter;*
- *whether there should be safety and environmental regulation for the build of e-scooters, and what this might entail; and*
- *the experience of other countries where e-scooters are legal on the roads.*

Given our insurance focus, this short submission is limited to the first of those and in particular to the insurance requirements in Part VI of the RTA.

The Act requires motor insurance to be in place for liabilities arising from the use of "a motor vehicle on a road or other public place". The RTA requires that cover in respect of personal injuries is unlimited whereas a minimum limit (currently £1.2m) applies to property damage.

However, the effect of the decision in *Vnuk* is that the cover required by the MID is much wider than this and means, in effect, that the European requirement for compulsory insurance - to which the UK remains subject until at least 31 December 2020 - should apply to any powered motor vehicle being used as a means of transport and without restriction as to the type of land on which it is used. *Lewis* then confirmed that the MIB shall be liable to meet claims in the gap between the UK's RTA insurance regime and the obligation in the MID as properly understood following *Vnuk*.

There would appear to be three broad options, set out in the table at the foot of this response, for insurance arrangements for e-scooters, either during limited trials or on a longer, more settled basis. In effect, these may be summarised as follows:

1. no compulsory insurance
2. conventional compulsory motor insurance
3. compulsory insurance with lower minimum limits, either
 - MID minimum level, or
 - different level(s) based on evidence of risk of harm

As a matter of principle, it appears to us that taking the policy decision to allow a new type of powered vehicle to be used on the roads very likely ought to be accompanied by the introduction of a form of compulsory insurance to protect against the risk of harm that may be caused to other road users. If this proposition is accepted it would appear to exclude adopting option 1.

We do not have specific evidence of the likely risk of harm to others associated with riding e-scooters. We can see that introducing controls and safety measures such as speed/power restrictions and driver training/licencing may moderate the risks and may therefore tend to suggest they present a less serious threat to other road users than conventional vehicles and motorcycles.

That said, negligent riding of e-scooters could foreseeably cause a car driver to take evasive action with serious consequences, leading to the same extent of injury and harm caused by negligent driving. The values of the resultant personal injury or property damage claims could easily exceed any lower level of protection introduced in respect of e-scooter use, although injury claims would have been covered in full had the injuries been caused by negligent driving. This example shows that serious thought needs to be given to setting levels of protection and to their interaction with the existing RTA regime (as well as to the claims process and the function of the MIB as a payer of last resort).

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