

Written evidence submitted by Cycling UK

INTRODUCTION

1. Cycling UK was founded in 1878 and has 72,000 members and supporters. Historically known as 'CTC' or the 'Cyclists' Touring Club', Cycling UK's central charitable mission is to make cycling a safe, accessible, enjoyable and 'normal' activity for people of all ages and abilities. Our interests cover cycling both as a form of day-to-day transport and as a leisure activity, which can deliver health, economic, environmental, safety and quality of life benefits, both for individuals and society. Cycling UK is a member of the Walking and Cycling Alliance (along with the Bicycle Association, British Cycling, Living Streets, Ramblers and Sustrans) as well as the Healthy Air Campaign.
2. Cycling UK has been pleased to provide oral as well as written evidence to a number of Transport Committee inquiries in recent years, notably its inquiry on Active Travel in 2019, whose recommendations we strongly supported. Our written submission to that inquiry¹ provides an overview of the economic, environmental, health and quality-of-life arguments for investing in cycling, hence we do not repeat them here.
3. In this submission, we put forward our provisional view that e-scooters could be potentially beneficial overall in reducing the adverse environmental and economic disbenefits of excessive car-dependence, but that these benefits are uncertain and could be offset by other environmental, health and safety disbenefits.
4. We welcome cautious trials as a way to seek better data on the likely impact of legalising e-scooters in the UK context. However, based on what is known so far, our view is that e-bikes should be legalised on the basis of the 'precautionary principle', i.e. limiting the maximum power output and speed at lower levels than those which apply to electrically assisted pedal cycles (EAPCs, or 'e-bikes'). It would be easier to relax these restrictions at a later date if the potential adverse impacts of e-scooters turn out to be relatively unproblematic, than to attempt to do the reverse. Tightening the limits on the maximum power and/or speed of e-scooters would be difficult to do, as this would involve banning the use of certain types of e-scooter after members of the public had spent good money on buying them. Hence any legislative framework to legalise the use of e-scooters should err on the side of caution.

UNCERTAIN ENVIRONMENTAL, HEALTH AND SAFETY IMPACTS

5. Electric scooters have pros and cons that have to be weighed up carefully. They could be a clean and space-efficient way to reduce congestion, road danger, pollution and greenhouse gas emissions caused by excessive car use. However they risk being treated as 'throw-away vehicles', and could also pose safety risks of their own, given their sensitive steering (due to their narrow handlebars) and small wheels (which is likely to make them more vulnerable to road surface defects). Finally, there are risks that they could attract more people from walking, cycling and public transport, rather than from

¹ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/transport-committee/active-travel/written/91593.pdf>

car use. This would not only undermine their potential environmental benefits, but could seriously undermine the health benefits of encouraging walking and cycling, given that e-scooter use does not entail physical activity.

6. The question of whether e-scooters would attract travel predominantly from trips that are currently made by car, or from current walking, cycling and public transport, is crucial to an assessment of their overall benefits and disbenefits. E-scooter hire firms point to a study from Santa Monica, California (where around 50% of e-scooter trips replaced trips that would otherwise have been made by car, taxi or minicab) and from Portland, Oregon (where the corresponding figures were 34% for trips made by city residents, and 48% of rides made by visitors²). However data from Paris suggests mode shift from cars, taxis or minicabs has been only 8-10% - an OECD report provides a full table of available evidence.³ This level of mode shift is likely to depend on the background levels of car, taxi and minicab use in the relevant area.
7. A study by North Carolina State University⁴ attempted a whole lifecycle assessment of the net carbon impacts of hired e-scooters. Taking account of the costs of manufacturing and transporting the scooters (both from the place where they are manufactured to the location where they are used, and transport within the city to keep them sheltered, or to redistribute them to where they are needed), it found that whether e-scooters delivered a net saving in carbon emissions was very sensitive to how long they lasted. Some data suggests that hired e-scooters typically have very short lifespans, which would likely be associated with a net disbenefit in terms of CO₂ emissions. However the manufacturers have responded to criticisms of e-scooters being 'throw-away vehicles' by developing more robust e-scooters. This would be more likely to give a net CO₂ benefit. However the key point is that the evidence is not clear-cut one way or the other.
8. The safety trade-off is also unclear. The OECD report mentioned earlier found that a shift from car use to e-scooters and other 'Type A' micromobility vehicles (i.e. those which are speed-limited to a maximum of 25 kmh / 15.5 mph) was likely to achieve a net road safety benefit, because the increases in injuries and fatalities suffered by e-scooter users would be outweighed by the reduction in overall danger to other road users (including pedestrians and cyclists, as well as e-scooter users themselves) from motor vehicles.
9. However it is not clear that this beneficial effect could not be achieved more effectively by promoting a shift to cycling instead. The injury risks to e-scooter users themselves were similar to those faced by cycle users, though two studies found higher risks of hospitalisation for e-scooter riders, and the fatality risk was also slightly higher. The proportions of e-scooter injuries due to road surface maintenance defects (rather than collisions with other motor vehicles) was markedly higher for e-scooter users, which also suggests that e-scooter injuries are less likely to be reduced by installing high-quality protected cycle lanes.
10. The most significant potential down-side of e-scooters is likely to be the risk that they attract a shift of journeys from cycling and walking (either on their own or in

² www.portlandoregon.gov/transportation/article/709719

³ www.itf-oecd.org/sites/default/files/docs/safe-micromobility_1.pdf, see Table 3

⁴ <https://iopscience.iop.org/article/10.1088/1748-9326/ab2da8>

combination with public transport), thereby reducing the health benefits of 'active travel'. The physical activity benefits of cycling provide the main economic justification for investment in high-quality cycle facilities. It would therefore be ironic if the justification for that investment was then undermined if e-scooter use displaced cycling in cycle facilities, thereby undermining the economic case that had justified the provision of those cycle facilities in the first place.

11. Conversely, the strongest argument in favour of e-scooters is likely to be one that takes time to be realised. To the extent that e-scooters persuade people to switch trips from car-use that would otherwise not have switched to walking or cycling, would not only achieve environmental and economic benefits that would be additional, but would also help strengthen the economic and political justification for investment in high-quality protected cycle lanes. Those cycle lanes would need to have a higher capacity than if they merely needed to accommodate cycling alone. However, this additional (or accelerated) reallocation of road-space could therefore strengthen the potential benefits of cycling (as well as e-scooting itself) in terms of reducing physical inactivity, as well as allowing the two modes to co-exist as complementary solutions for tackling congestion, pollution and greenhouse gas emissions.

REGULATION BASED ON THE PRECAUTIONARY PRINCIPLE

12. Faced with these uncertainties about the net benefits and disbenefits of legalising e-scooters, Cycling UK's provisional view, pending the outcome of forthcoming trials, is that e-scooters should be legalised on a precautionary basis. Specifically, the limits on their maximum speed should be set at 20kmh / 12.5 mph, rather than the 25kmh / 15.5mph limit imposed on the motors of e-bikes. This is the speed limit imposed on e-scooters in Germany, Sweden and Norway.⁵
13. This would help reduce the potential safety risks of e-scooters, and particularly injuries caused by road surface defects. However it would also maintain an advantage for e-bikes over e-scooters, thereby increasing the likelihood that e-scooters would attract people to switch from cars without this being at the expense of potential physical activity benefits switching to walking or cycling, including e-bikes.

CONDUCT OF TRIALS

14. The Department for Transport (DfT) has recently consulted on plans to conduct local trials of hired e-scooters.⁶ We support DfT's proposal to limit the maximum speed of e-scooters for the purpose of this trial to 12.5 mph, and are content that e-scooters should have rights to use the same spaces as pedal cycles (i.e. that they would be entitled to use carriageways, cycle lanes and cycle tracks, but not footways). It is important that pedestrians should not be endangered or deterred by conflict with e-scooters, as it is with cycling. We support DfT's proposal that the providers of e-scooters should be required to provide insurance cover for their users, and are content that those users should be required to have some form of driving licence, even though we do not believe the latter requirement should feature in any permanent regulatory framework for e-

⁵ www.eltis.org/discover/news/e-scooter-regulations-germany-and-france

⁶ www.gov.uk/government/consultations/legalising-rental-e-scooter-trials-defining-e-scooters-and-rules-for-their-use/legalising-rental-e-scooter-trials

scooter use. For the short-term purpose of conducting trials, it is a reasonable way of ensuring that e-scooter users have some basic road-craft skills.

15. We also support DfT's decision not to require the use of helmets for the purpose of these trials, in line with its policy of not requiring helmet-use for cycling. Cycling UK would strongly oppose any proposals to introduce laws requiring the use of helmets for cycling, for reasons set out in our policy briefing and evidence review⁷ on cycle helmets. It is true that e-scooter users may be exposed to slightly greater risks than cyclists and that these risks are more likely to be related to road surface defects (i.e. to not involve collisions with other vehicles, and thus to be of a kind that a helmet might withstand). However, based on the evidence available to date, we see no reason to treat e-scooter use differently from cycling in this respect.
16. However we are concerned about (though not fundamentally opposed to) DfT's proposals not to require e-scooter riders to undertake any form of user training. Even for experienced cyclists, the initial experience of starting to ride an e-scooter is surprising, and users need to be forewarned of what to expect. We urge that the providers of e-scooters should at least be required to provide information, e.g. an instructional video, for users of e-scooter schemes at the point when they subscribe.
17. We are concerned that DfT seems not to have given consideration to what offences can be committed on an e-scooter, nor how local police forces will take enforcement action against people illegally using e-scooters that are not part of an authorised e-scooter trial, particularly in areas where those trials are taking place legally. This brings us to a point that will need to be considered in any permanent regulatory framework, namely the definitions of and penalties for road traffic offences.

OFFENCES, PENALTIES AND ENFORCEMENT

18. Cycling UK has long been concerned that the framework of 'core' road traffic offences (i.e. 'careless' and 'dangerous' driving, and their equivalents involving causing death or causing serious injury) is not fit for purpose.⁸ In response to campaigning by Cycling UK and its allies,⁹ the Government promised a comprehensive review of road traffic offences in 2014,¹⁰ however this has still not materialised.¹¹
19. During the Transport Committee's 2015-16 inquiry on Road Traffic Enforcement,¹² it considered this issue, even though it felt (incorrectly we suspect) that this was strictly speaking a matter for the Justice Committee. The committee's inquiry report reflected Cycling UK's concerns on this point, noting that:

"There has been a decrease in the number of convictions for "causing death by dangerous driving" (falling steadily from 241 offences in 2004 to 123 offences in 2014)¹⁹ and a corresponding increase in the number of convictions for "causing death by careless or inconsiderate driving"²⁰ As a result the overall number of convictions for these "causing

⁷ Both downloadable from www.cyclinguk.org/campaigning/views-and-briefings/cycle-helmets

⁸ www.cyclinguk.org/article/why-should-government-review-road-traffic-offences-full

⁹ www.cyclinguk.org/minister-backs-talks-to-improve-traffic-justice

¹⁰ www.cyclinguk.org/news/government-announces-full-review-of-driving-offences-and-penalties

¹¹ www.cyclinguk.org/blog/duncandollimore/government-will-nothing

¹² <https://publications.parliament.uk/pa/cm201516/cmselect/cmtrans/518/518.pdf>

death” offences has remained steady, from 303 offences in 2004 to 311 offences in 2014, with little variation in the intervening years.²¹ The offence of “causing death by careless or inconsiderate driving” was introduced in 2006, and since 2009 there has been a decrease in the number of convictions for “causing death by dangerous driving”, falling from 225 in 2009 to 123 in 2014. In the same period, the number of convictions for “causing death by careless or inconsiderate driving” has increased from 81 to 163. As shown in Table 1, there is no overall trend in the number of convictions for “causing death” offences. There are concerns that, as the overall number of “causing death” convictions has not reduced, offences that would have once been “causing death by dangerous driving” have effectively been downgraded to “causing death by careless or inconsiderate driving”. This falls within the jurisdiction of the Justice Select Committee, and we would encourage that Committee to look into this matter.”

Similar concerns were voiced by MPs from across the political spectrum during a Westminster Hall debate on ‘Road Justice’ in November 2018.¹³

20. There is a specific anomaly in the legal framework that we wish to highlight. The most serious of the ‘core’ road traffic offences that can apply to the users of ‘normal’ pedal cycles is ‘dangerous cycling’, which has a maximum penalty of £2,500. There is no cycling equivalent to the offences of ‘causing death by dangerous driving’, or ‘causing serious injury by dangerous driving’, which have maximum penalties of 14 years and 5 years custody respectively, though there is the option of prosecuting for ‘wanton and furious riding’, which has a maximum custodial penalty of 2 years.
21. Concerns about this discrepancy caused DfT to promise a review of the framework of cycling offences in 2018,¹⁴ with a view to achieving greater consistency between cycling and motoring offences. In response, Cycling UK said it was not opposed to tougher maximum penalties for cycling or the principle of greater consistency. However we argued that this consistency should not be achieved simply by ‘copying and pasting’ the legal framework of motoring offences and penalties to create new cycling offences and penalties. Instead, we argued that the appallingly flawed framework of ‘careless’ and ‘dangerous’ offences therefore needed to be overhauled, rather than simply extending it to cover a very small number of serious cycling offences. The Government has since acknowledged that “this is a complex area.”¹⁵
22. In our response to the cycling offences review,¹⁶ Cycling UK noted a similarly absurd discrepancy between the offences and penalties that can be applied to the users of regular pedal cycles and e-bikes respectively. Because e-bikes are classed as motor vehicles (albeit of a kind that is exempt from the normal requirements in relation to driver and vehicle licencing, insurance, and prohibitions against off-road driving), their riders can be prosecuted and convicted not just for ‘dangerous cycling’ but also for ‘causing death by dangerous driving’, with a maximum sentence of 14 years custody.

¹³ www.cyclinguk.org/news/mps-criticise-inconsistent-laws-road-justice-debate

¹⁴ www.gov.uk/government/consultations/new-cycling-offences-causing-death-or-serious-injury-when-cycling

¹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817695/road-safety-statement-2019.pdf – see para 2.59

¹⁶ www.cyclinguk.org/sites/default/files/document/2018/11/1811_rg_dft_cycling-offences-full_confinal.pdf

23. Therefore, in the short term (i.e. for the purpose of the trials currently being proposed), the Government needs to clarify that (presumably) the motoring offences framework will also apply to e-scooter riders, as it does for e-bike users. However, looking ahead, it needs to consider seriously how to reform the framework of 'careless' and 'dangerous' offences not only for cycling and motoring, but also for e-scooters and other micromobility vehicles, if these are to be legalised.

June 2020