Transport Committee: E-scooters (follow-up)
Written evidence: Motor Accident Solicitors Society (MASS)
February 2023

1. This response is prepared on behalf of the Motor Accident Solicitors Society (MASS). MASS is a Society of solicitors acting for the victims of motor accidents, including those involving personal injury. MASS has over 80 solicitor firm Members, conducting the majority of personal injury motor accident claims annually on behalf of the victims of those accidents. The Society's membership is spread throughout the United Kingdom.

2. We all recognise the need for a greater variety of greener, inclusive and affordable transport options. E-scooters and other low-speed zero-emission vehicles may play an important role in achieving these goals.

3. However, given the scale and growth in accidents, injuries and fatalities, and the problem of public nuisance caused by e-scooter use in pedestrian areas, we do not share the Committee's general view from its 2020 report that "too many requirements on users or operators may be burdensome and discourage take-up"[i]. It is our view that the health and safety of thousands of road users and pedestrians is paramount.

4. MASS believes that the evidence demonstrates that e-scooters require a robust regulatory regime for both rental and privately-owned e-scooters. With accidents, fatalities and injuries already occurring in growing numbers, there is an urgent need for the regulatory regime to be updated.

5. The first pedestrian to be killed by an e-scooter in the UK happened in early June 2022 when a 14-year-old riding on a pavement crashed into a 71-year-old woman in Nottinghamshire.

6. All accident statistics involving e-scooters are on a sharply upward trend[ii] [iii]:

    - 1,349 collisions involving e-scooters in the year ending June 2022 (up 38% compared to 978 collisions in the year ending June 2021 and 460 reported collisions in 2020)

    - 1,437 casualties to June 2022 (up 39% compared to 1,033 casualties in the year ending June 2021 and 484 casualties in 2020)

    - 12 killed in collisions (11 of whom were the e-scooter riders) in the year ending June 2022 (up 200% from 4 deaths in the year ending June 2021 and one death in 2020)

    - an estimated 429 seriously injured and 996 slightly injured in the year ending June 2022 (up 49% and 34% compared to 288 seriously injured and 741 slightly injured respectively in the year ending June 2021, with 128 serious injured and 355 slightly injured in 2020)

    - The user survey[iv] of the e-scooter trials suggests that 5% of users had experienced a collision and DfT have produced a provisional rate estimate of 13 casualties per million miles, about three times higher than the rate for pedal cycles – although the data might suggest that the accident rate falls with experience.

7. Given the proliferation of privately owned e-scooters – just under 1 million e-scooters were estimated to be imported into the UK in 2020 and 2021[v] - and the practical difficulties already encountered around enforcement of their use in public places, no-one believes that the current situation is sustainable.

8. The consensus appears to be that both rental and privately-owned e-scooters should be legal to use in public places, providing there is a robust regulatory regime on the allowed technical specifications, safety equipment and usage.

9. The regulatory regime for privately-owned e-scooters urgently needs to be clarified and updated. Under the current legislative framework, specifically the Road Traffic Act 1988, e-scooters are considered to be motor vehicles. A 'motor vehicle' is defined in the Act as "any mechanically-propelled vehicle intended or adapted for use on roads". If used on the road, the vehicle must be insured, taxed and have a range of safety requirements including licence plates, indicators and rear lights.

10. We support the Government's plans to create a new Low-Speed Zero Emission Vehicle (LZEV) category which could provide the opportunity to address many of the issues and concerns around the use of e-scooters. We are concerned however that the continued delay in bringing forward these regulations is causing unnecessary injuries and, in some instances, loss of life.

11. It was disappointing that the new Highway Code, which introduced a host of rule changes and clarifications on 29 January 2022, did not include e-scooters in the new concept of a hierarchy of road users. This hierarchy of road users, ranking users from the most vulnerable (pedestrians) to the least vulnerable (HGVs) linked with an appropriate duty of care, enshrines and codifies the concept of 'causative potency', something that the judiciary has been handing down decisions on for many years. We would urge the Committee to recommend the inclusion of e-scooters and other LZEVs as a category into the Highway Code as soon as is practicable.

12. There appears to be a broad consensus around many of the possible technical standards, with general agreement around the need for anti-tampering devices, wheel size, brakes, maximum weight and maximum power supply.

13. The retrofitting of currently owned private e-scooters that do not meet these specifications should be actively encouraged and should be a necessity if they are to be used on public roads.

14. Whether e-scooters should have a 12.5mph maximum speed limit as recommended by PACTS or the maximum of 15.5mph currently allowed under the trial rental schemes needs to be determined by the technical experts. We consider that for practical reasons, there should be a maximum speed imposed across the board for both private and rental e-scooters. Part of the current problem with inappropriate e-scooter behaviour is cultural – to have varying maximum speeds would invite competition between rental and privately owned e-scooters, rather than universally observed best practice. The tampering of mechanisms to increase speed/power should be prohibited by law.

15. With the high risk of sustaining a head injury from an e-scooter collision, the immediate cost to the NHS and the potential long-term life-changing implications for the victims of accidents, we would strongly support the compulsory wearing of safety helmets for e-scooters. This is supported by a growing body of international academic research[vi] [vii]

[viii]. We appreciate that safety helmets are not currently mandatory for bicycles – although we would support this as well.

16. Carrying a passenger, drink driving, dangerous or careless riding and the use of headphones, handheld mobile phones or other devices should all be prohibited. Lighting and an audible warning device should be mandatory. Hi-visibility jackets should be recommended.

17. Road tax, registration plates and mandatory insurance are all valid options to consider, particularly for privately owned e-scooters which would not be covered by the registration and procedures involved in rental schemes. Although they would be unpopular, it is our view that we should not be placing convenience and affordability above wellbeing and life.

18. We disagree with the Committee's reservations about e-scooter users requiring a driving licence[ix]. Whilst acknowledging that this creates a barrier to some people using e-scooters, it is our view that a driving licence provides a) a proven level of understanding of the Highway Code and correct use of public highways, b) imposes an appropriate minimum age limit and c) provides a form of identification should the worst happen and the user is involved in an accident. If it is decided that e-scooter users should not be required to hold a driving licence, a potential compromise could be that they are at least required to pass the Highway Code section of the driving test before being allowed to ride on public roads.

19. Some countries, such as Norway and Finland, have introduced limits on night-time usage (primarily linked to late-night alcohol consumption). Whilst there is some evidence that alcohol and drug usage does play a role in many accidents involving e-scooters, the UK data does not suggest that there is presently an issue linking alcohol and night-time. There is a clear high peak of accidents occurring at 8am and a second one at 5pm, with a sharp decline at night[x]. We suggest that this should be kept under review, but do not believe that the evidence supports any specific night-time restrictions.

20. There is a clear distinction between the legal use of e-scooters involved in the trials and the illegal use of privately owned e-scooters. The illegal use of e-scooters in public places is so widespread and the difficulties of enforcement, that there needs to be a cultural shift over time. Whilst 'education over enforcement' must be the longer-term goal, given the widespread illegal use of e-scooters, enforcement over the illegal use of e-scooters on public roads, pavements, cycle lanes and in pedestrian-only areas must be dramatically increased in order to combat the cultural acceptance of illegal behaviours.

21. In the absence of a regulatory framework, we are concerned at the huge variation in retail behaviour. Some retailers have prominent statements informing consumers that e-scooters are not yet legal to use on UK public roads, a statement about adult supervision for children and "appropriate" safety equipment, whilst others only contain this or limited information in the small print. Some models are specifically marketed as being 'off-road' whilst other high-performance models (with a maximum speed of 40kmh/25mph are advertised for general purpose use. It should be expected that online purchases will be unavailable to children due to limited finance options, but we are generally concerned that age restriction checks are not made either online or in-store. Following the introduction of agreed technical specifications, we would like to see increased penalties and robust enforcement by local Trading Standards offices aimed at retailers selling e-scooters beyond the established technical specifications once introduced.

22. The enforcement of the £300 fixed penalty notice for improper use should be stepped up, with progressive increases for further violations. Local authorities and the Highways Agency should work to progressively improve road/path signage and develop clearer parking facilities and requirements.

23. Given the regrettable delay in introducing a regulatory framework whilst the e-scooter market has proliferated, the task of re-education is now going to be substantially more difficult and will certainly take longer.

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[i] Paras 58, Transport Committee, E-scooters: pavement nuisance or transport innovation?, E-scooters: pavement nuisance or transport innovation? - Transport Committee - House of Commons (parliament.uk)

[ii] Reported road casualties Great Britain: e-Scooter factsheet year ending June 2022 - GOV.UK (www.gov.uk)

[iii] Reported road casualties Great Britain: e-Scooter factsheet 2020 - GOV.UK (www.gov.uk)

[iv] Pages v and vi, National evaluation of e-scooter trails, Findings report, Department for Transport, December 2022, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1128454/national-evaluation-of-e-scooter-trials-findings-report.pdf

[v] DfT PQ answer, 9 January 2023 https://questions-statements.parliament.uk/written-questions/detail/2023-01-09/119090

[vi] Imperial College London, Computational prediction of head-ground impact kinematics in e-scooter falls, 13 January 2022
E-scooter simulations highlight head injury risk to riders from falls | Imperial News | Imperial College London

[vii] University of California San Diego, The e-merging e-epidemic of e-scooters, 2019
The e-merging e-pidemic of e-scooters | Trauma Surgery & Acute Care Open (bmj.com)

[viii] King's College Hospital, London, 'The e-scooter pandemic at a UK Major Trauma Centre: A cost-based cohort analysis of injury presentation and treatment', 18 August 2022
The e-scooter pandemic at a UK Major Trauma Centre: A cost-based cohort analysis of injury presentation and treatment - ScienceDirect

[ix] Paras 50-51, Transport Committee, E-scooters: pavement nuisance or transport innovation?, E-scooters: pavement nuisance or transport innovation? - Transport Committee - House of Commons (parliament.uk)

[x] Chart 4, Casualties by time of day, DfT e-Scooter factsheet year ending June 2022
Reported road casualties Great Britain: e-Scooter factsheet year ending June 2022 - GOV.UK (www.gov.uk)