



Department  
for Transport

Technical consultation on  
motor insurance: Consideration  
of the European Court of Justice  
ruling in the case of Damijan  
Vnuk v Zavarovalnica Triglav d.d  
(C-162/13)  
Summary of responses

**Moving Britain Ahead**



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# 1. Introduction

- 1.1 The government is carrying out a review of domestic legislation on motor insurance because it has become evident, from the European Court of Justice's Vnuk judgment, that the Motor Insurance Directive which sets out the rules that all Member States of the European Union (EU) must implement, is broader than our domestic legislation.
- 1.2 The UK will in due course be leaving the EU. Until we do so, we will remain a member with all the rights and obligations that membership entails. During this period the government will continue to negotiate, implement and apply EU legislation.
- 1.3 On 20 December 2016 the Department for Transport (DfT) launched a UK-wide consultation titled Technical consultation on motor insurance: Consideration of the European Court of Justice ruling in the case of Damijan Vnuk v Zavarovalnica Triglav d.d (C-162/13). The consultation invited views from members of the public and organisations on the policy options and challenging issues being considered in light of the Vnuk judgment. More information on the judgment and implications for the UK can be found in our consultation document:  
<https://www.gov.uk/government/consultations/motor-insurance-consideration-of-the-vnuk-judgment>
- 1.4 The consultation closed on 13 April 2017. We received 902 responses, comprising 720 responses to the consultation survey and 182 general comments. Of the 720 responses to the survey, 675 were submitted online and 45 were emailed and/or posted to us. 87 responses to the survey were on behalf of organisations, with the remaining 633 being responses from private individuals.
- 1.5 All 902 responses have been analysed to inform the summaries set out in this document. The 182 general comments did not specifically answer any of the questions set out in the consultation survey, making it difficult to assess them against the questions asked. The statistics presented in the summaries of responses are therefore taken from the 720 responses to the survey, and views from the general comments are included in the narratives.
- 1.6 The majority of respondents expressed concerns about the Vnuk judgment, with around 94% of those who responded to the relevant question stating that the judgment as it currently stands (the 'comprehensive option') would be worse than the current position on motor insurance in the UK.
- 1.7 Of the four policy options set out by the European Commission in an Inception Impact Assessment in June 2016, the proposal to limit compulsory motor insurance to vehicles used "in traffic" (the 'amended Directive option') proved the most popular with respondents.<sup>1</sup> Around 72% of those who responded to the relevant question

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<sup>1</sup> More information on the European Commission's four suggestions can be found at [http://ec.europa.eu/smart-regulation/roadmaps/docs/2016\\_fisma\\_030\\_motor\\_insurance\\_en.pdf](http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_fisma_030_motor_insurance_en.pdf)

stated that the amended Directive option would be better than the comprehensive option.

- 1.8 Respondents tended to express similar concerns about both the comprehensive and amended Directive options as the ones set out in the government's consultation document. Issues raised include enforcement challenges, the potential need to amend the Statutory Off-Road Notification (SORN) scheme and a likely increase in fraud.
- 1.9 The Department for Transport would like to thank all those who responded to the consultation. The responses will help inform a government response, which will set out the proposed way forward. This will be published in due course.

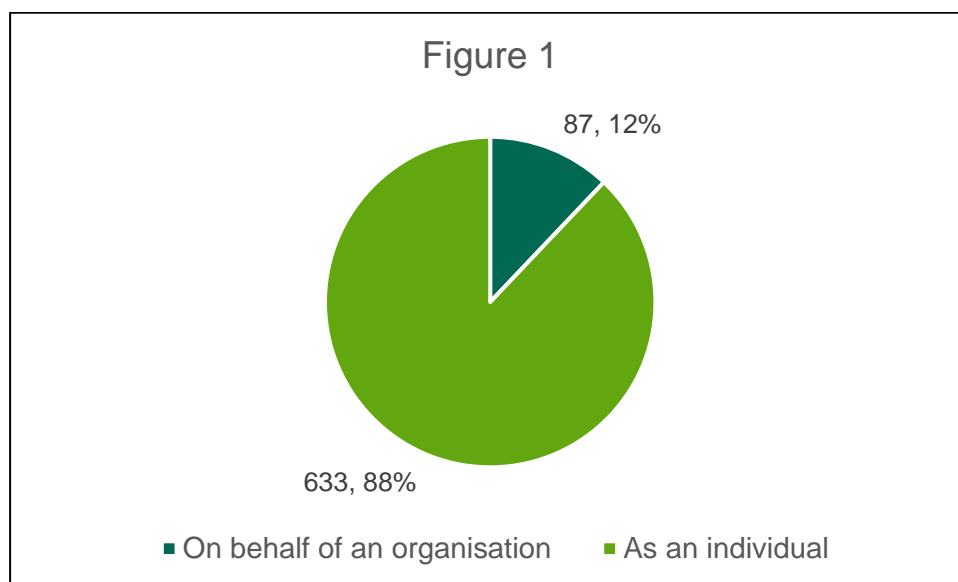
## 2. Consultation process

- 2.1 Table 1 shows that around 77% of responses were in relation to the UK as a whole, and nearly 20% were in relation to Great Britain. One response was in relation to Northern Ireland.

**Table 1: Geographical scope of responses**

Responses relating to...	Number of responses
...the UK as a whole	552 (77%)
...Great Britain	135 (19%)
...Northern Ireland	1 (<1%)
No comment	32 (4%)

- 2.2 Figure 1 shows the breakdown in responses from private individuals and organisations.



- 2.3 Table 2 below shows the various principal areas of interest of the 87 organisations which responded to the consultation.
- 2.4 We received a large proportion of responses from organisations, as well as private individuals, with a primary interest in motor sports. This is reflected in Section 3, in which concerns relating to the future of motor sports are frequently mentioned in the summaries.

**Table 2: Organisations' principal area(s) of interest**

Principal area of interest	Number of organisations
Motor sports	27
Insurance	14
Motorists	7
Classic vehicles / restoration	6
Road safety (including victims' wellbeing)	5
Electrically assisted pedal cycles	5
Agricultural / lawnmower interest	3
Mobility scooters	2
Segways	1
Other <sup>2</sup>	7
No comment	19
Total	96 <sup>3</sup>

2.5 Nearly 60% of organisations declared a workforce of more than 50 people. Over 20% declared a workforce of fewer than 50 people. Around 20% did not mention the number of people in their organisation.

<sup>2</sup> Action vehicles (film props), gliding support vehicles, powered children's toys, distribution of fuels and oils, vehicle recycling, leisure accommodation vehicles and motorcycles were each mentioned once.

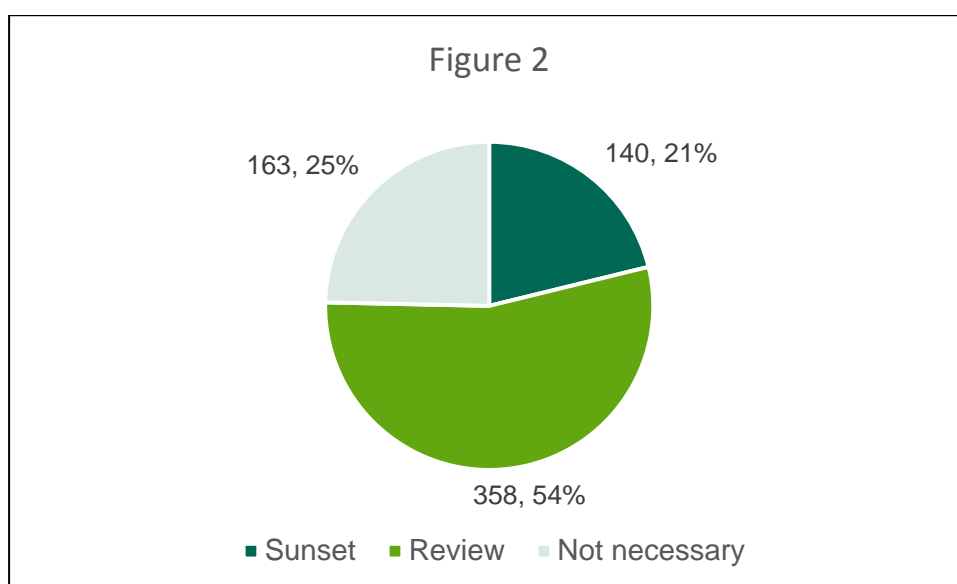
<sup>3</sup> A number of organisations provided more than one principal area of interest, which is why we arrived at a total of 96.

### 3. Summary of responses to questions asked in the consultation

#### UK motor insurance policy upon leaving the EU

**Q1a. Due to the uncertainty, do you think that the government should add either a sunset clause or a review clause in any new regulations stemming from this consultation?**

3.1 Figure 2 shows that over half of those who responded to this question believe that the government should add a review clause in any new regulations. Just over 20% support a sunset clause, while approximately a quarter believe neither is necessary.



#### Q1b. Why?

**Table 3: Q1b most common themes amongst responses to Q1a**

Response	Rationale	Number of times mentioned
Review clause	Review clause would allow government to consider the best approach for the UK once the nature of our future relationship with the EU is known	121
	No need to align UK and EU motor insurance rules going forward	48



	Concern about the impact of the Vnuk judgment on motor sports	31
Sunset clause	No need to align UK and EU motor insurance rules going forward	68
	Sunset clause would allow government to consider the best approach for the UK once the nature of our future relationship with the EU is known	16
	Concern about the impact of the Vnuk judgment on motor sports	8
Not necessary	Do not align UK and EU motor insurance rules going forward	60
	Concern about the impact of the Vnuk judgment on motor sports	15

3.2 Table 3 shows the main rationales respondents gave for the different responses.

**Q2. Leaving the EU allows us to look afresh at our overall policy aims on motor insurance. What are your views on the approach the UK should seek to take once we leave the EU?**

**Table 4: Q2 most common themes**

Theme	Number of times mentioned
No need to align UK and EU motor insurance rules going forward	308
Determine best approach at the time of exit from the EU, when the nature of the future UK-EU relationship is known	86
UK should align with EU motor insurance regulations for ease of travel	52

3.3 Table 4 shows that over 300 respondents stated that the UK should not align with EU motor insurance rules upon leaving the EU. This was by far the most common response.

3.4 86 respondents felt that the best approach will become clear at the time of the UK's exit from the EU, when the nature of the future relationship is known. Over 50 respondents stated that the UK should align with EU motor insurance regulations for ease of travel.

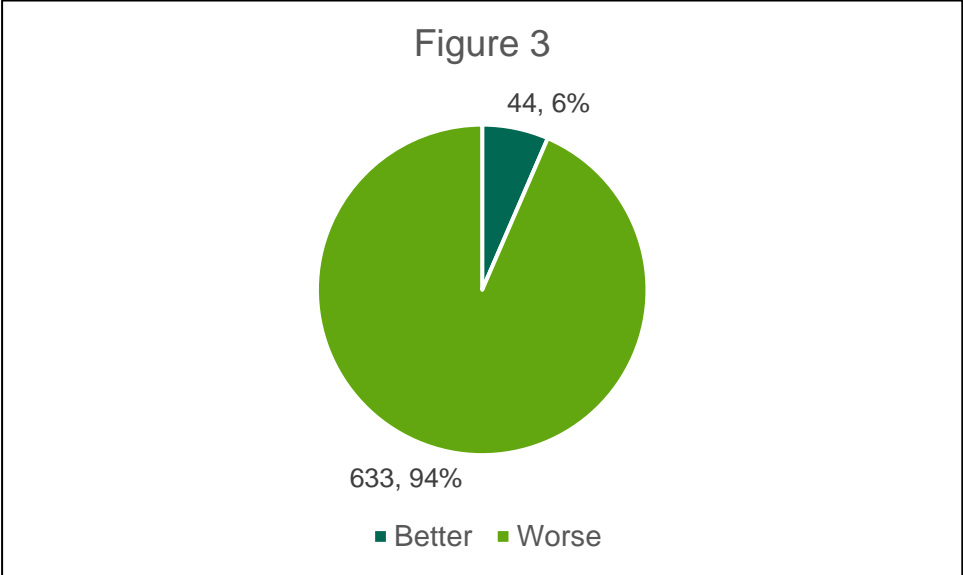
**Table 5: Q2 most common themes amongst organisations**

Theme	Number of times mentioned
No need to align UK and EU motor insurance rules going forward	29
Determine best approach at the time of exit from the EU, when the nature of the future UK-EU relationship is known	27
UK should align with EU motor insurance regulations for ease of travel	21

- 3.5 Table 5 shows that organisations were split on the issue of UK motor insurance policy after having left the EU. In contrast, the majority of private individuals were in favour of the UK not aligning with EU motor insurance rules upon leaving the EU.
- 3.6 A number of organisations stated that maintaining ease of travel might not necessitate the UK's full alignment with the EU. It was noted that even now there are differences between the motor insurance regimes in the UK and other EU Member States, such as the claims processes.

# The Comprehensive Option

**Q3a. Compared with the current position do you believe if the domestic law on motor insurance changed in line with the comprehensive option it would be better or worse?**



**Q3b. Why?**

**Table 6: Q3b most common themes amongst ‘worse’ responses to Q3a**

Theme	Number of times mentioned
Negative effect on motor sports	129
Negative effect on SORN / off-road vehicles such as museum exhibits and classic cars	102
Increased costs that are disproportionate to benefits	92
Increase in claims / fraud / premiums	86
Difficult to administer / manage / enforce	56
Current system in the UK works well	41

- 3.7 All of the most common themes outlined in Table 6 came from respondents who answered ‘worse’ in Q3a. This is because respondents tended to be critical of the comprehensive option, stating that it would be complicated and difficult to enforce. Nearly a hundred anticipate increased costs which will be disproportionate to any benefits arising, though did not go into detail as to the nature of these costs and benefits. Specific costs mentioned by other respondents include an increase in claims to insurers, fraud and insurance premiums.
- 3.8 The Motor Insurers’ Bureau (MIB) anticipates “very considerable, costly and disruptive change...which goes far beyond pure insurance related provisions and the original intent of the Directive” and that “there would also need to be comprehensive changes to regulations regarding licensing requirements and construction and use of

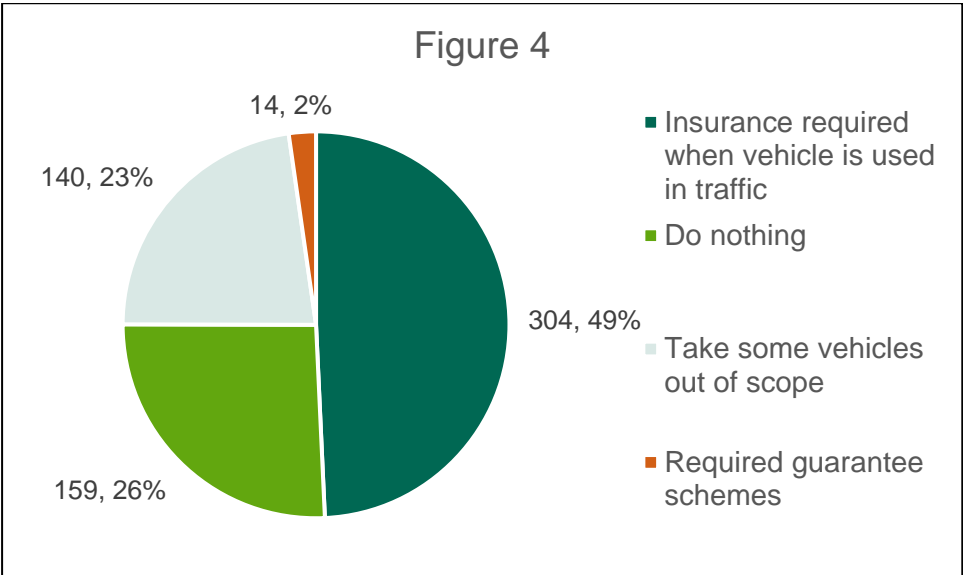
vehicles. Policing would need to be wider with the consequential additional training requirements for officers.”

- 3.9 A number of respondents considered that the UK already has a system that works well. For example, the Association of British Insurers (ABI) stated that “had [Mr Vnuk’s] accident occurred in the UK, the claim would have been settled satisfactorily by the UK’s compulsory Employer’s Liability regime. Any suggestion, therefore, that [there is] a fundamental EU-wide gap in the motor insurance regime is clearly wrong.” Other organisations such as the MIB and Allianz share this view. Allianz added that “disrupting the existing and well-functioning EL and PL [Public Liability] insurance markets would have inevitable consequences for insurers and customers, with small businesses likely to be especially disrupted.”
- 3.10 Another common theme mentioned by respondents was that the comprehensive option would have a negative effect on specific sectors or groups of vehicles in the UK. Nearly 20% of responses mentioned that the comprehensive option would have a negative effect on motor sports. Other examples mentioned included a negative effect on classic cars, SORN vehicles and mobility scooters.
- 3.11 The response from the Motor Sports Association (MSA) broadly reflected the views of most respondents that believe the comprehensive option will negatively affect motor sports: “a change in UK law in line with the comprehensive option would not only be worse than the current position, but would likely signal the end of regulated motor sport in the UK...We have been consistently advised by the insurance market that compulsory third party motor insurance for motor sport events will be unobtainable.”
- 3.12 The majority of the 182 general comments we received were from private individuals expressing concern about the comprehensive option’s negative impact on motor sports.
- 3.13 The small proportion of respondents that answered ‘better’ to Q3a tended to comment that certain types of newly-in-scope vehicle do pose a risk to the public and should therefore require motor insurance; and that the comprehensive option would provide a route to compensation to a wider range of victims of accidents.

# The Amended Directive Option

## Q4a. Which of the Commission’s four suggestions do you believe would be best for amending the Directive?

- 3.14 Figure 4 shows that nearly half of those who responded to this question regarded the European Commission’s ‘in traffic’ option, referred to as the amended Directive option in this document, as the best suggestion for amending the Directive. This was by far the most popular suggestion.
- 3.15 It should be noted that whilst over a quarter of respondents stated that ‘do nothing’ was the Commission’s best suggestion, the majority of those respondents misinterpreted this option as being the UK’s current position on motor insurance. Rather, ‘do nothing’ refers to the Commission’s suggestion of not amending the way the Motor Insurance Directive was interpreted in the Vnuk judgment (i.e. the comprehensive option). As a result of this misinterpretation, responses favouring ‘do nothing’ are often accompanied with comments such as “system works well currently” and “continue with what we have already”.<sup>4</sup>



## Q4b. Why?

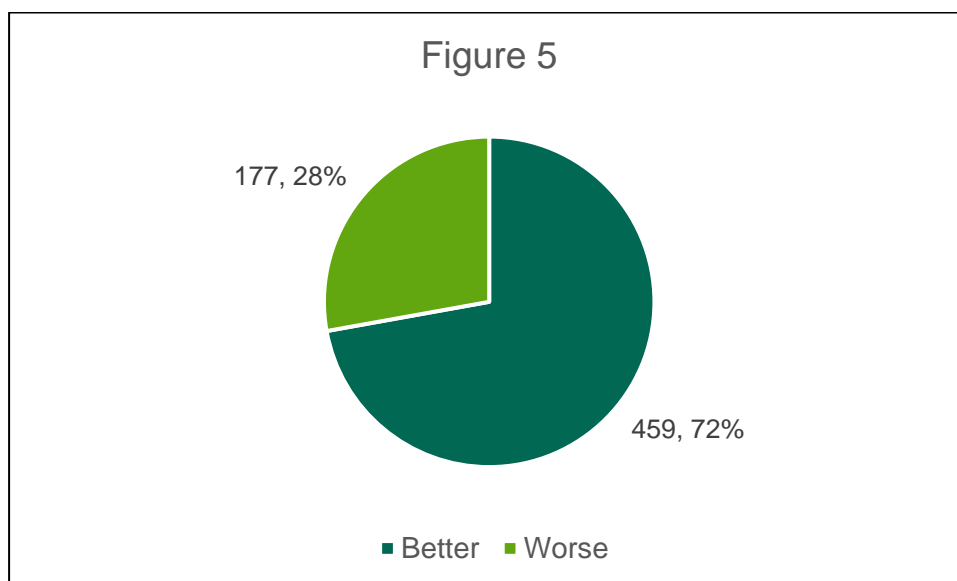
Table 7: Q4b most common themes amongst responses to Q4a

Response	Rationale	Number of times mentioned
Insurance required when vehicle is used in traffic	Most sensible solution	78
	Greatest risk to public comes from vehicles used in traffic	64
	Nearest to current UK system	31
Take some vehicles out of scope	Suggest certain types of vehicles to be taken out of scope	72
	Nearest to current UK system	28

<sup>4</sup> More information on the European Commission’s four suggestions can be found at [http://ec.europa.eu/smart-regulation/roadmaps/docs/2016\\_fisma\\_030\\_motor\\_insurance\\_en.pdf](http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_fisma_030_motor_insurance_en.pdf)

- 3.16 Table 7 shows that over a quarter of respondents that favoured the European Commission’s ‘in traffic’ option were of the view that it was the most sensible solution and a good compromise when compared to the comprehensive option, which they regarded as too expensive, complicated and with unintended consequences. Over 20% reasoned that the greatest risk of personal injury or property damage came from vehicles used ‘in traffic,’ thereby making it sensible to bring them in scope of the Motor Insurance Directive. Approximately 10% favoured the ‘in traffic’ option as it appeared to be nearest to current motor insurance policy in the UK.
- 3.17 The British Insurance Brokers’ Association (BIBA) favoured the ‘in traffic’ option and listed a number of reasons for holding this view – many of which were also mentioned by other respondents: “it ensures security of [the] UK motorsport industry; prevents an increase in insurance costs; largely recognises the current compulsory motor insurance law in the UK; "used in traffic" avoids issues of toys / ride-on lawnmowers and numerous other potentially newly-in-scope vehicles requiring RTA cover; it would be a helpful barrier against a new source of compensation culture and fraud posed by the Vnuk ruling; [and] reduces the risk of uninsured driving.”
- 3.18 Table 7 shows that over half of respondents that favoured the European Commission’s ‘take some vehicles out of scope’ option did so as they wished to see a certain type of vehicle exempted from the compulsory motor insurance obligation. Examples include motor sport vehicles, classic cars, museum exhibits, mobility scooters, ride-on lawnmowers, golf buggies, EAPCs, SORN vehicles and powered children’s toys. The Bicycle Association stated that compulsory motor insurance “could be highly damaging to e-bike use, and the cycle industry, unless EAPCs were derogated from the requirement for individual insurance.”

**Q5a. If the Directive was amended so insurance was required when vehicles are used in traffic when compared to the comprehensive option would this make it better or worse?**



## Q5b. Why?

**Table 8: Q5b most common themes amongst 'better' responses to Q5a**

Theme	Number of times mentioned
Keeps vehicles used on private land out of scope of compulsory motor insurance	182
Greatest risk to public comes from vehicles used in traffic	73
Negative effects of the comprehensive option	28

- 3.19 All of the most common themes outlined in Table 8 came from respondents who answered 'better' in Q5a. The table shows that nearly 40% of respondents that favoured the amended Directive option pointed out that it was the most sensible solution as it would likely keep vehicles used solely on private land out of scope of the Motor Insurance Directive. Examples mentioned by respondents include some or all motor sport vehicles, museum exhibits, SORN vehicles and powered children's toys. Many of these respondents also stated that the amended Directive option appeared to be nearest to current motor insurance policy in the UK.
- 3.20 Some respondents favoured the amended Directive option as, in their view, vehicles used on private land pose minimal risk of causing personal injury or property damage – making compulsory motor insurance for these vehicles unjustifiable. For example, Zurich commented that the amended Directive option "would address many of the most significant concerns with the Vnuk ruling and it achieves the main purpose of the legislation, which is to protect the general public from losses arising from personal injury or damage to property for the use of motor vehicles in a public place."
- 3.21 Over 70% of respondents that favoured the comprehensive option either did not provide reasons for their preference; or misinterpreted the 'do nothing' / comprehensive option as meaning current motor insurance policy in the UK.
- 3.22 A small proportion of respondents favoured the comprehensive option as it would provide a route to compensation to a wider range of victims of accidents involving "motor vehicles" (as defined in the Motor Insurance Directive). A number of respondents who answered 'worse' misinterpreted the comprehensive option as being the UK's current position on motor insurance.

## Q6. What do you think would be the effects in particular areas of the UK of using as the basis for compulsory insurance "areas where the public has access in accordance with national law"?

**Table 9: Q6 most common themes**

Theme	Number of times mentioned
Negative effect on motor sports	93
Negative economic effects	66
Difficulties distinguishing between public and private land	59
Negative effect on various types of vehicle potentially newly-in-scope	47

- 3.23 Responses to Question 4 of the consultation show that the “in traffic” amended Directive option was the most popular amongst respondents. Furthermore, responses to Question 5 show that the majority of respondents believe that the amended Directive option would be better than the comprehensive option.
- 3.24 Despite this preference for the amended Directive option, the majority of respondents highlighted various negative effects and difficulties of using as the basis for compulsory motor insurance “areas where the public has access in accordance with national law.”
- 3.25 The most common theme mentioned by respondents is that this basis for compulsory motor insurance would have a negative effect on the motor sports industry. The Motorsport Industry Association (MIA) and Vintage Sports Car Club (VSCC) commented that members of the public often have access to certain areas of motor sports venues, such as the paddock and pit lanes, meaning that motor sports vehicles would likely fall under the compulsory insurance obligation.
- 3.26 The second most common theme was the perceived negative economic effects of pursuing this basis for compulsory motor insurance. A number of respondents stated an increase in costs, though usually the response did not go into detail as to the nature of these costs. Nearly 30 respondents stated an increase in motor insurance premiums.
- 3.27 A number of respondents commented that “areas where the public has access in accordance with national law” does not clearly define what constitutes private and public land, making it difficult to distinguish between the two and determine the circumstances in which a vehicle would require insurance. The NFU Mutual Insurance Society commented that “the term “areas where the public has access in accordance with national law” would need to be clearly defined, particularly if there was any intention to deviate from the current legislative requirement.”
- 3.28 A number of respondents highlighted the potential negative effects on users of certain types of newly-in-scope vehicles that tend to be used on land to which the public has access. For example, the British Healthcare Trades Association (BHTA) outlined that this basis for compulsory insurance might cause confusion for users of mobility scooters and powered wheelchairs.
- 3.29 Respondents also reiterated the view set out in the consultation document that “areas where the public has access in accordance with national law” potentially has different implications for different parts of the UK.<sup>5</sup> Most respondents raising this issue mentioned Scotland and the possibility that the Land Reform (Scotland) Act 2003 broadens what constitutes land over which the public has access compared to other parts of the UK.
- 3.30 Other frequently mentioned effects were likely enforcement and/or policing issues, and increases in fraud and litigation.

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<sup>5</sup> More information can be found on pages 31-32 of our consultation document at <https://www.gov.uk/government/consultations/motor-insurance-consideration-of-the-vnuk-judgment>

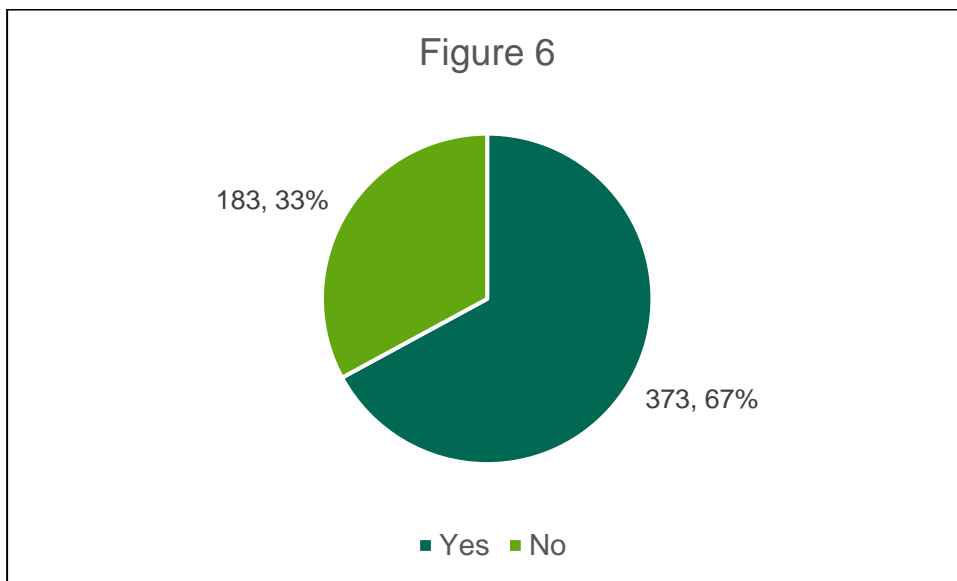


## Derogations

**Q7. Do you think government should make use of the power available to derogate certain vehicles in the:**

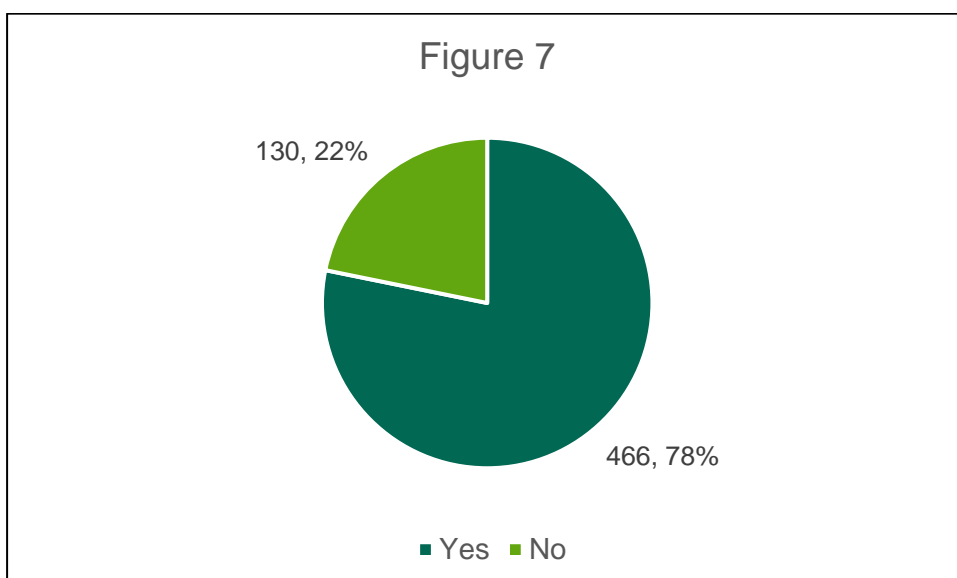
**a. comprehensive option?**

3.31 Figure 6 shows that around two-thirds of those who responded to this question believe the government should make use of the power to derogate certain vehicles under the comprehensive option. Around a third are against derogations under the comprehensive option.



**b. amended Directive option?**

3.32 Figure 7 shows that nearly 80% of those who responded to this question believe the government should make use of the power to derogate certain vehicles under the amended Directive option. Figures 6 and 7 show that derogation is significantly more popular under the amended Directive option, and opposed by fewer.



## Comments accompanying responses to questions 7a and 7b

- 3.33 The Motor Insurers' Bureau (MIB) stated that "derogation of certain vehicles under both options should be used but only to a very limited extent" as "derogation in respect of certain types of vehicle...would leave MIB to pay for claims arising from the use of such vehicles and, as it stands, these costs would, therefore, be borne by premium paying motorists...The aim of derogation should be to avoid imposing an expensive burden on consumers." Organisations such as The Royal Society for the Prevention of Accidents (RoSPA) and Association of British Insurers (ABI) also supported limited derogation under both options for the same reasons.
- 3.34 Other organisations, such as Allianz and Aviva, favoured derogation under the amended Directive option, but not under the comprehensive option. In response to Q7a, Allianz stated that "it is totally unreasonable that motor insurance premiums should be used to fund compensation for incidents that have absolutely no relation to the activities these policies cover."
- 3.35 In contrast, the RAC Motoring Service commented that derogation "should only be considered for the comprehensive option and only for vehicles operating on private land where the frequency of accidents is extremely low and the average claims cost is also low."

## **Q8. Which factors provide the most suitable basis for deciding which types of newly-in- scope vehicles to derogate?**

**Table 10: Q8 most common factors**

Factor	Number of times mentioned
Level of risk posed to the public	135
Whether the vehicle is used only on private land / area of use	129
Intended use of the vehicle	61
Derogate motor sports vehicles	46
Speed	44
Weight	41

- 3.36 Table 10 shows that the majority of respondents supported the view set out in the consultation document that only "low risk" types of newly-in-scope vehicles should be considered for derogation. As such, a number of organisations, including the Association of British Insurers (ABI) and DAC Beachcroft, stated that the factors outlined in the consultation document are broadly appropriate.<sup>6</sup>
- 3.37 The most common factor mentioned by respondents was the level of risk which a type of newly-in-scope vehicle poses to the public. A number of respondents suggested ways of determining the level of risk, such as: the frequency of accidents involving a type of vehicle; and a vehicle's propensity to cause personal injury and/or property damage.

<sup>6</sup> The factors we put forward can be found on page 37 of our consultation document at <https://www.gov.uk/government/consultations/motor-insurance-consideration-of-the-vnuk-judgment>

- 3.38 For example the Royal Society for the Prevention of Accidents (RoSPA) commented that “derogations should be based on careful risk assessments of the likelihood of accidents and their likely severity for each type of [newly-in-scope] vehicle.”
- 3.39 A number of other factors frequently mentioned by respondents are linked to the abovementioned factor of derogating types of newly-in-scope vehicles posing minimal risk to the public:
- Whether the vehicle is used only on private land / area of use: respondents suggesting this factor tended to hold the view that these types of vehicles were unlikely to operate near members of the public, thereby posing minimal risk.
  - Intended use of the vehicle: respondents suggesting this factor frequently referred to uses posing minimal risk to the public. Examples include vehicles which are not used to transport people and vehicles used for business purposes (and therefore in controlled environments).
  - Speed: respondents suggesting the derogation of vehicles which operate below a certain speed limit often pointed out that the speed a vehicle is travelling at affects the extent to which it can cause damage to a person or property.
  - Weight: respondents suggesting the derogation of vehicles below a certain weight often pointed out that the weight of a vehicle affects the extent to which it can cause damage to a person or property.
- 3.40 In contrast to the abovementioned “low risk” factors, a large number of respondents proposed that motor sports vehicles should be derogated. For example, the RAC Motoring Service commented that “the participants in motorsports accept that by participating, they are accepting a risk of involvement in accidents... The government might wish to consider whether a derogation is possible in limited situations where the risk is significant but there is an acceptance that each individual party accepts the risk.”
- 3.41 A number of respondents commented that derogation should be considered in situations where the compulsory motor insurance obligation would be detrimental to certain members of the public. For example, the International Underwriting Association of London (IUA) stated that “it is imperative to evaluate the impact on vulnerable or less financially-independent members of the public, such as users of mobility-assistance vehicles or young persons. For groups such as these, an increase in the operating cost of these vehicles or associated insurances could be detrimental to quality of life.”

## Enforcement

**Q9. What do you think are the main enforcement challenges, and how do you think we should deal with them, in the:**

### **a. comprehensive option?**

**Table 11: Q9a most common challenges mentioned**

Challenge	Number of times mentioned
Challenge of policing and enforcing the amended law	315
Public inconvenience	80

**Table 12: Q9a most common solutions mentioned**

Solution	Number of times mentioned
Various solutions provided to deal with enforcement challenges	56
Database / register would deal with enforcement challenges	38

- 3.42 Approximately 63% of those who responded to this question stated that the main enforcement challenge under the comprehensive option would be policing and enforcing the law if the scope of compulsory motor insurance is extended. Nearly 75% of organisations which responded were of this view.
- 3.43 A number of organisations stated that policing and enforcing the comprehensive option is not possible given it extends the scope of compulsory motor insurance to private land. The Association of British Insurers (ABI) and Insurance Fraud Bureau (IFB) commented that “it would not be possible to enforce a compulsory insurance requirement in off-road private places. There is no way of ascertaining how many vehicles it would apply to, who owns them and (most importantly) where and how often they are used.”
- 3.44 The Motor Insurers’ Bureau (MIB) highlighted difficulties associated with policing on private land: “It is hard to see how it would be possible to justify the right of police to enter onto private land for the purpose of random checks as to whether the insurance requirement has been satisfied. There would be no ability to use ANPR technology to detect breaches.”
- 3.45 Eighty private individuals commented that it would be difficult to enforce the comprehensive option given that it will be seen as a public inconvenience. Similarly, the National Farmers Union (NFU) anticipates “potential opposition by the public into what may be seen as an unjustified intrusion of the state into personal matters if an extensive registration and licensing regime for newly-in-scope vehicles is required.”
- 3.46 A number of private individuals suggested solutions for dealing with enforcement challenges brought about by the comprehensive option. Examples include insurance certificates for all newly-in-scope vehicles and requiring manufacturers to submit vehicle specifications to the government.

3.47 The most common solution provided was the need for a central database or register to record all newly-in-scope vehicles requiring insurance – a suggestion set out in the consultation document.<sup>7</sup> Organisations such as The Royal Society for the Prevention of Accidents (RoSPA) and DAC Beachcroft argue that a central register could help deal with enforcement challenges, but also point out the significant costs of setting up and maintaining it.

## b. amended Directive option?

**Table 13: Q9b most common challenges mentioned**

Challenge	Number of times mentioned
Challenge of policing and enforcing the amended legislation	264
Public inconvenience	68

**Table 14: Q9b most common solutions mentioned**

Solution	Number of times mentioned
Various solutions provided to deal with enforcement challenges	71
Database / register would deal with enforcement challenges	34

3.48 Approximately 59% of those who responded to this question stated that the main enforcement challenge under the amended Directive option would be policing and enforcing the law if the scope of compulsory motor insurance is extended to “in traffic.” This is slightly less than the 63% of respondents who felt the same challenge would arise under the comprehensive option. The decrease was more significant amongst organisations, with 58% seeing this as a challenge under the amended Directive option, compared to nearly 75% under the comprehensive option (see summary of question 9a).

3.49 A number of organisations, particularly those with ‘insurance’ as their principal area of interest, felt that though policing and enforcement would still be an issue under the amended Directive option, it would be to a lesser extent compared with the comprehensive option. The British Insurance Brokers’ Association (BIBA) and the AA commented that the amended Directive option is easier to enforce as it “reflects our current laws on compulsory motor insurance and is dealt with by effective enforcement using the Motor Insurance Database.”

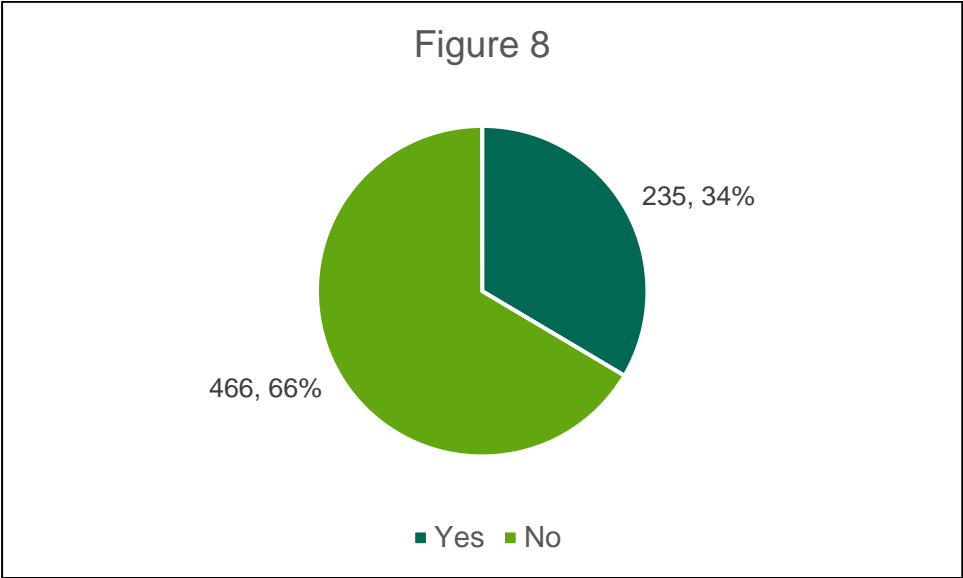
3.50 The MIB commented that there would still be enforcement challenges under the amended Directive option, such as the need for messaging to the public and training for the police as to what types of vehicles would and would not be in scope of the compulsory motor insurance obligation. The ABI and IFB also raised potential challenges, such as the difficulty of identifying untraced users of newly-in-scope

<sup>7</sup> More information can be found on page 39 of our consultation document at <https://www.gov.uk/government/consultations/motor-insurance-consideration-of-the-vnuk-judgment>

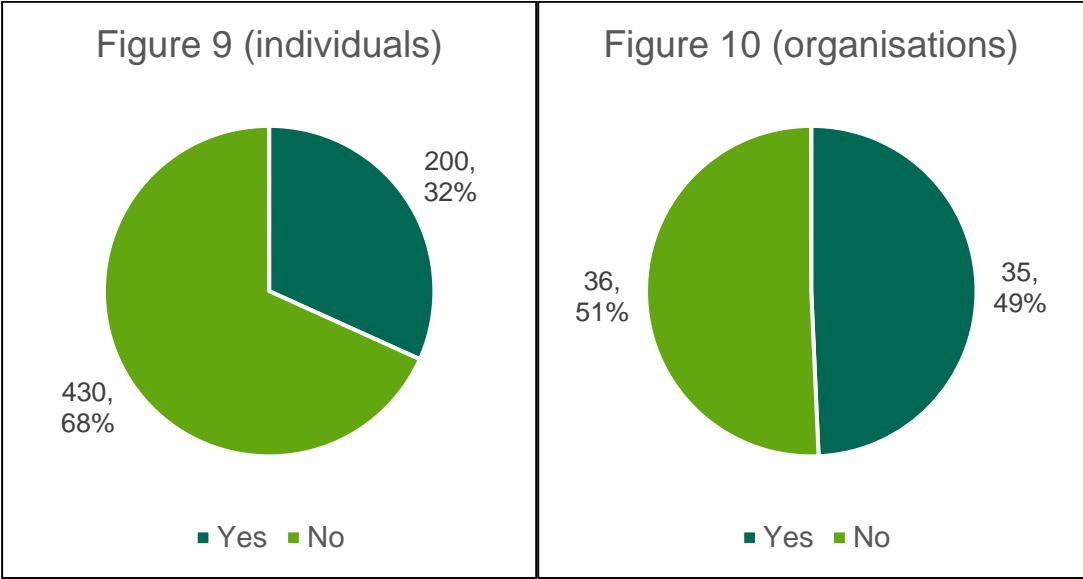
vehicles and the lack of vehicle registration making it harder to verify vehicle users responsible for an incident.

**Q10. Should a central register of every newly-in-scope vehicle be maintained?**

3.51 Figure 8 shows that the majority of respondents were against a central register:



3.52 Figures 9 and 10 show that this was a result of a majority of private individuals being against a central register, with organisations more split on the issue:



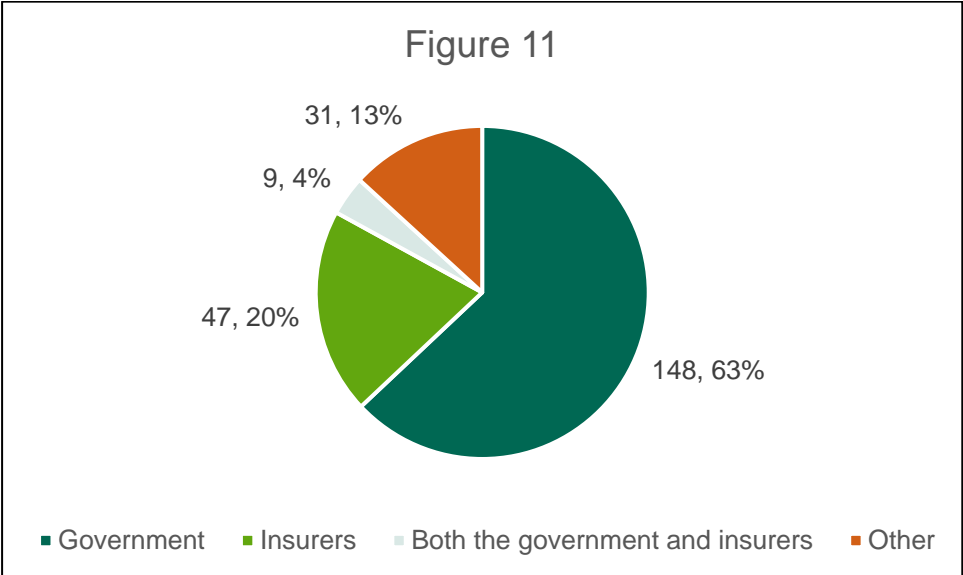
3.53 Eight of the organisations in favour of a central register provided comments alongside their response, with six commenting that a central register would be costly but necessary to enforce the extended compulsory motor insurance obligation. Two of the organisations stated that they were particularly in favour of a central register

under the amended Directive option with certain vehicles derogated. For example, Aviva stated that “it would be necessary to maintain such a register to enable any effective enforcement. However, use of the “in traffic” definition [amended Directive option] coupled with derogation would considerably reduce the pool of vehicles to be registered, making it a manageable proposition.”

3.54 Two of the organisations against a central register stated that it would be too costly and difficult to maintain and police. One of them, the National Farmers Union (NFU), suggested an alternative light touch approach for newly-in-scope vehicles, with the burden on the user to ensure that such vehicles are appropriately insured, and enforcement by way of spot checks or After the Event insurance.

**Q11. Who should maintain the register?**

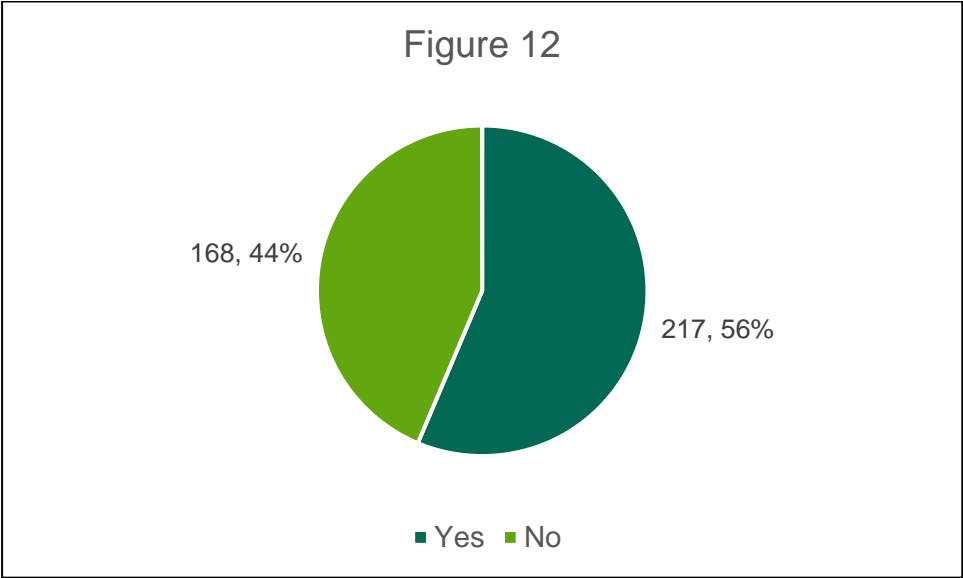
3.55 Figure 11 shows that the majority of the 235 respondents in favour of a central register believe it should be maintained by the government.<sup>8</sup>



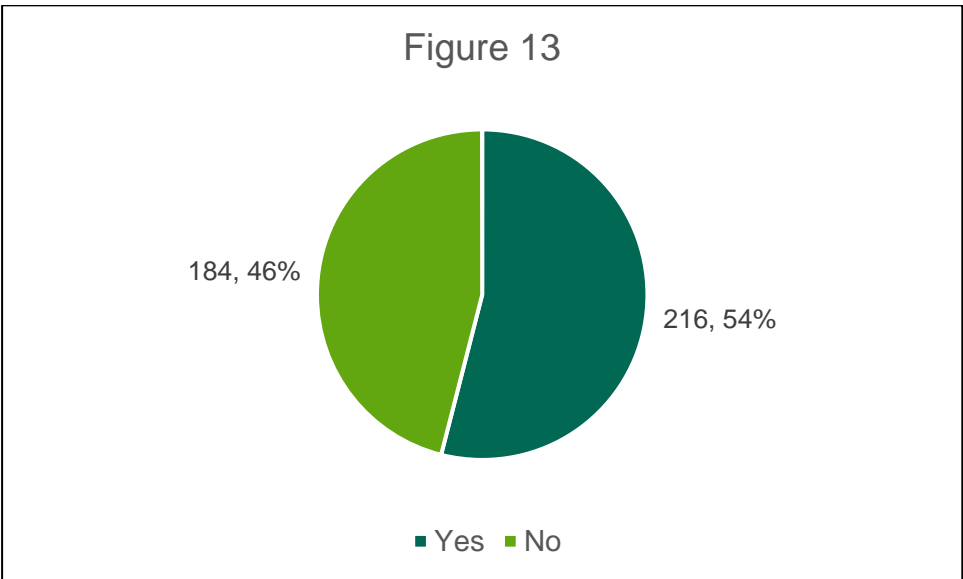
<sup>8</sup> Suggestions in the ‘Other’ category include the Driver and Vehicle Licensing Agency (DVLA), the Driver and Vehicle Standards Agency (DVSA), both the government and the Motor Insurers’ Bureau (MIB), and voluntary registers. The DVLA and DVSA form part of government.

**Q12. Is it important for all newly-in-scope vehicles to have a traceability marking for the:**

**a. comprehensive option?**



**b. amended Directive option?**



Comments accompanying responses to questions 12a and 12b

- 3.56 A number of organisations in favour of traceability markings for newly-in-scope vehicles under both policy options commented that the measure would be important to enforcing the extended motor insurance obligation. The AA and Direct Line Group (DLG), amongst others, commented that traceability markings would enable the investigation of claims involving newly-in-scope vehicles, and provide victims with quick access to compensation.
- 3.57 Various insurers highlighted the costs of enforcing traceability markings. Allianz commented that traceability markings might not prove effective without a database of



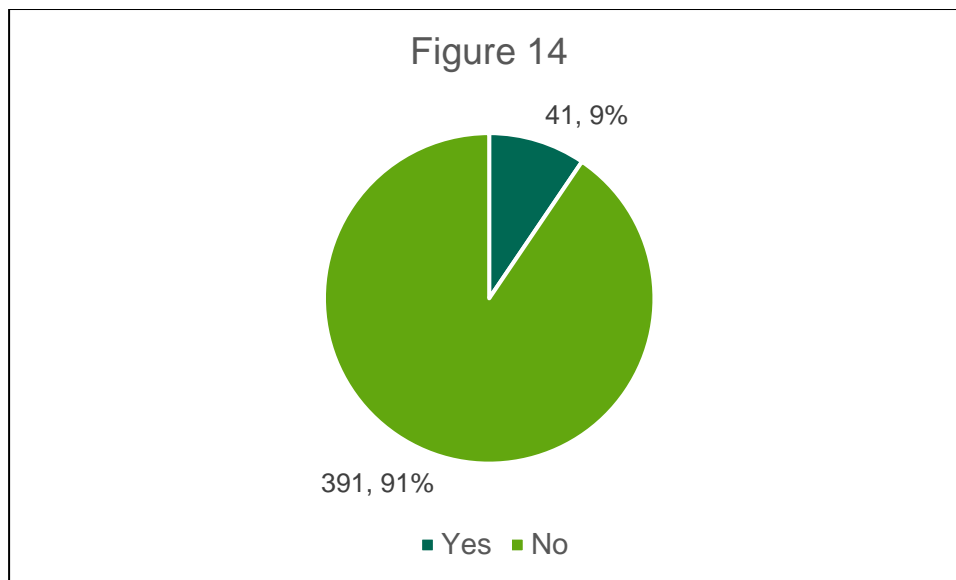
newly-in-scope vehicles. DLG stated that a significant public awareness campaign would be required to ensure that members of the public would not be unintentionally criminally liable.

- 3.58 Three law firms, including the Association of Personal Injury Lawyers (APIL), believe that traceability markings would only be required of newly-in-scope vehicles that are at risk of causing injury.

## Statutory Off-Road Notification (SORN)

### Q13a. Should all SORN vehicles be required to have third party insurance under the comprehensive option?

3.59 Figure 14 shows that nine in ten respondents to this question believe SORN vehicles should not be required to have third party motor insurance under the comprehensive option. This comprised approximately 93% of private individuals who responded to the question, compared with approximately 72% of organisations.



### Q13b. Why?

3.60 The majority of organisations and private individuals that responded 'no' stated that third party motor insurance should not be required if a vehicle is not being used or is incapable of use.

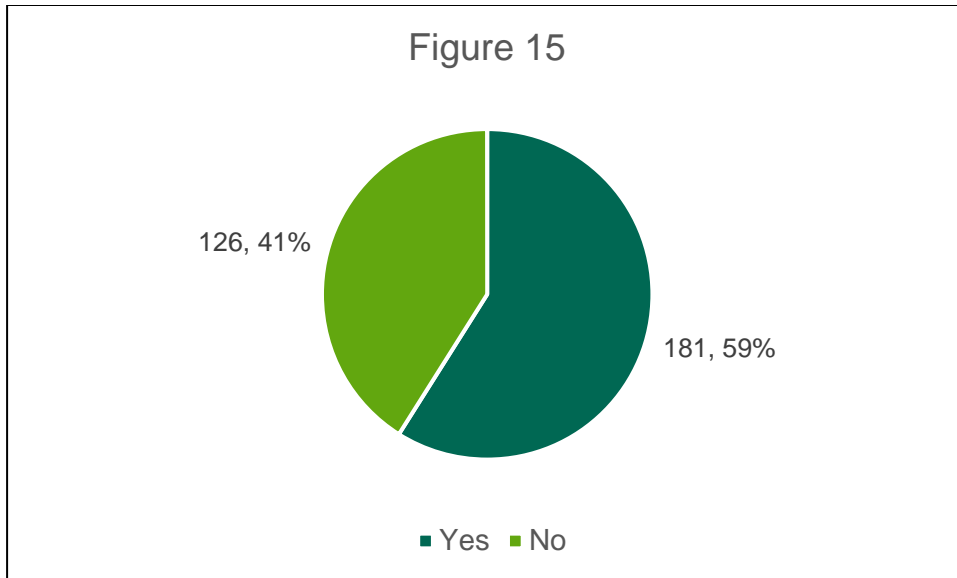
3.61 Some insurers and private individuals proposed a revision to the SORN process to ensure a distinction between vehicles which are not being used and those that are being used in an off-road setting. The former would then be exempt from motor insurance, but the latter would require it.

3.62 A number of organisations and private individuals that responded 'yes' commented that a SORN vehicle can still injure someone even if not in use or in use off-road. For example, the Association of Personal Injury Lawyers (APIL) stated that "any SORN vehicle which is used on private land must have insurance in place. SORN vehicles which are driven on private land are at risk of injuring people, and should have third party insurance in case of accident."

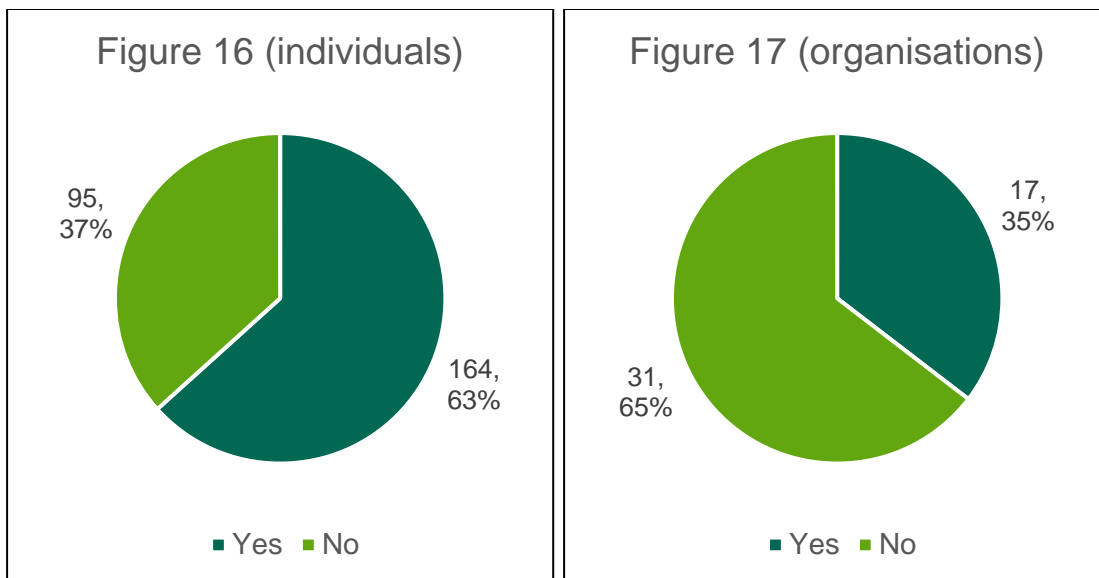
3.63 Over 60% of organisations that responded 'yes' had 'insurance' as their principal area of interest.

**Q14. Would there be problems with SORN under the amended Directive option?**

3.64 Figure 15 shows that nearly 60% of those who responded to this question believe there would be problems with SORN under the amended Directive option which would need addressing.



3.65 Figures 16 and 17 show that whilst the majority of private individuals responded ‘yes’ to this question, the majority of organisations responded ‘no.’



3.66 The majority of organisations which responded ‘no’ stated that there would not be a problem with SORN under the amended Directive option given that compulsory motor insurance would only extend to vehicles used “in traffic.”

3.67 Over a third of organisations envisioned problems with SORN under the amended Directive option. The Motor Insurers’ Bureau (MIB) believe there could be problems relating to enforcement, stating that under the amended Directive option, “the

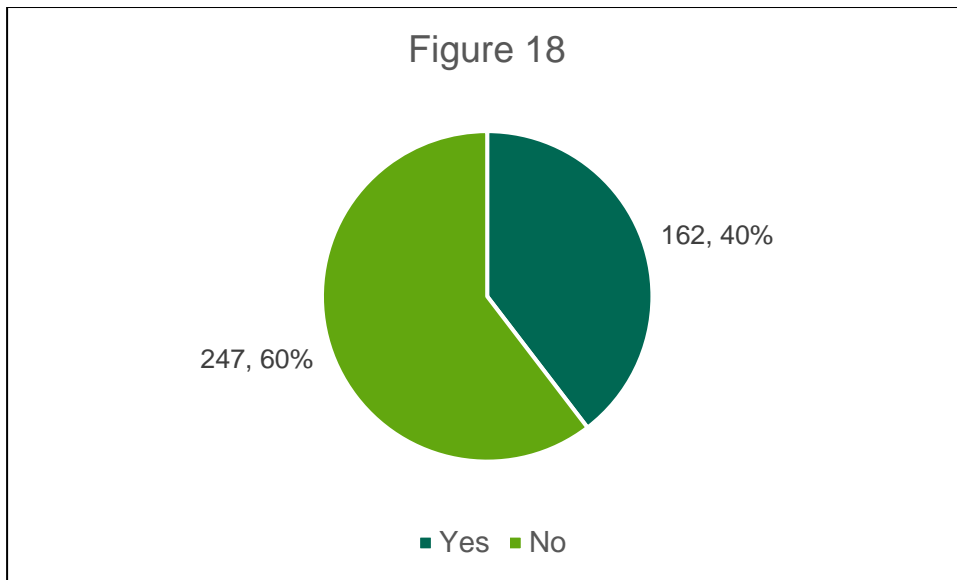
potential for abuse of SORN increases...It could be argued that some of the newly in-scope vehicles are more likely to be used in public places than on roads. It is more difficult to enforce the insurance requirement in these places than on roads.”

3.68 The Association of British Insurers (ABI) and Ageas commented that problems would arise if the scope of the amended Directive option extended to areas where SORN vehicles can be driven legally.

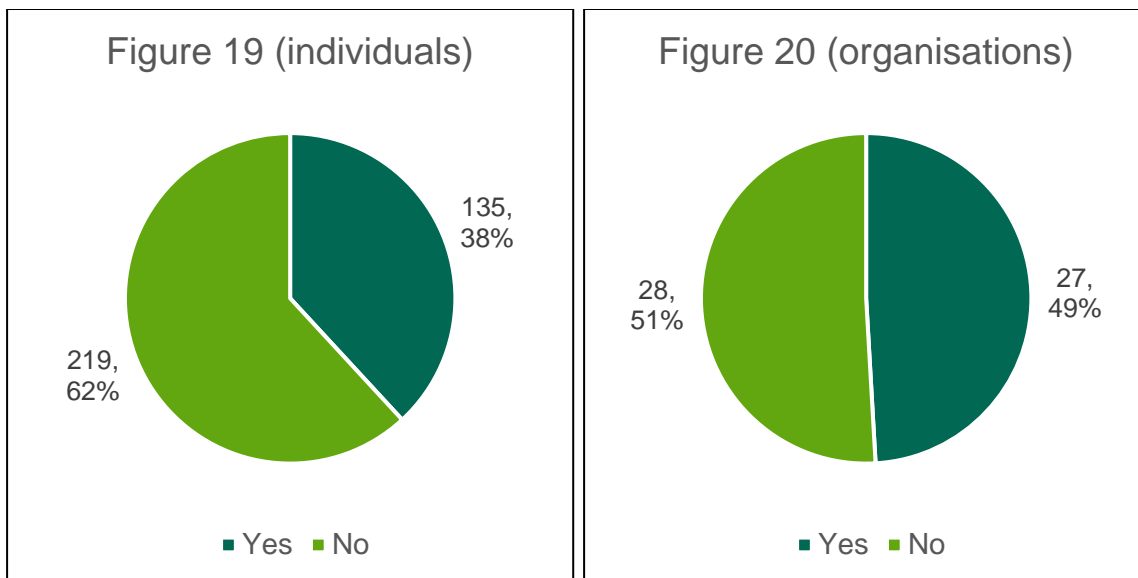
## Penalties

### Q15a. Should the same level of fine apply in respect of newly in-scope vehicles as currently applies to cars?

3.69 Figure 18 shows that around 60% of those who responded to this question believe that a lower level of fine should apply to newly-in-scope vehicles, compared to cars, for driving uninsured.



3.70 Figures 19 and 20 show that whilst the majority of private individuals responded 'no' to this question, organisations were more evenly split on the issue.



## Q15b. Why?

**Table 15: Q15b most common themes amongst responses to Q15a**

Response	Rationale	Number of times mentioned
No	Fine levels should be proportionate to risk posed by vehicle	96
	Disagree with fines being applied to newly-in-scope vehicles	39
Yes	Simple, fair and consistent	77
	Two-tier system would send out a mixed message	10

- 3.71 Table 15 shows that nearly 40% of those that responded 'no' to Q15a reasoned that the level of fine should be proportionate to the level of risk to the public posed by a vehicle. These respondents felt that newly-in-scope vehicles pose less of a risk than cars, meaning that users of these vehicles should receive a lower fine for driving uninsured. It was often pointed out that newly-in-scope vehicles clearly pose less of a risk than cars given many are presently unregistered, require no driver training and can be used by children. A number of respondents proposed a two-tier system for fining uninsured driving, based on a vehicle's risk to the public.
- 3.72 The British Insurance Brokers' Association (BIBA) stated that "proportionality must be observed. It would be unreasonable and disproportionate to ban someone from driving a car on the road because they inadvertently drove an uninsured golf buggy on a golf course or rode their electric bicycle on an off-road cycle track where the public might stray."
- 3.73 Table 15 shows that slightly less than half of those that responded 'yes' to Q15a reasoned that in the name of simplicity, fairness and consistency, the same level of fines should apply to newly-in-scope vehicles as currently apply to cars for driving uninsured. A number of respondents opposed a two-tier system for fining uninsured driving because it would send out a mixed message that would make some offences seem less serious than others. The Lloyds Market Association stated that "if the law places the same obligations on users of different vehicle types, then the same sanctions for breach of those obligations should apply."

## Fraud

### Q16. What requirements to deter fraud might be built into the claims procedure under the two main options in this consultation?

**Table 16: Q16 most common themes**

Theme	Number of times mentioned
More thorough investigation of claims	86
Harsher punishment for fraudulent claims	40
Impossible to deter fraud	29

- 3.74 The most common suggestion mentioned by respondents was a requirement for more evidence when making a claim to enable more thorough investigation of its authenticity. Ideas to ensure more evidence is obtained include use of telematics, on-board vehicle cameras and more widespread use of CCTV.
- 3.75 A number of respondents suggested ideas for ensuring more thorough investigation in the claims procedure. The Managing General Agents' Association (MGAA) stated that both policy options “would benefit significantly from a centrally coordinated claims / fraud register.”
- 3.76 The second most common suggestion for deterring fraud was the implementing of harsher punishments for individuals who make fraudulent claims. Ideas mentioned include confiscating and crushing vehicles. MGAA commented that “penalties for fraud need to be reviewed to ensure that they suffice as disincentives.” Others suggested methods for lowering the incentives for making a fraudulent claim, including lowering the financial amounts that can be claimed.
- 3.77 A small number of respondents stated that fraud could not be deterred and would invariably increase under both the amended Directive and comprehensive options.

### Q17. What comments do you have about the nature and extent of fraud which will be generated by the two main options in this consultation?

**Table 17: Q17 most common themes**

Theme	Number of times mentioned
Fraud will increase	181
Impacts of an increase in fraud	51
Measures to reduce the risk of fraud needed	37

- 3.78 The majority of those who responded to this question commented that there would be an increase in fraudulent activity, though most private individuals did not distinguish between the comprehensive and amended Directive option.
- 3.79 All of the respondents that did distinguish between the two options stated that the comprehensive option would provide more opportunities for fraudulent activity than the amended Directive option, given that the former requires insurance for vehicles used on private land. This view was expressed in particular by a number of

organisations with ‘insurance’ as their principal area of interest. The Association of British Insurers (ABI), Insurance Fraud Bureau (IFB), esure Group and Direct Line Group, amongst others, commented that fraud will be much harder to detect on private land given the lack of CCTV, police ANPR technologies and witnesses.

- 3.80 The Motor Insurers’ Bureau (MIB) mentioned another issue when tackling fraud on private land: “The possibility of police attendance [at a road traffic collision occurring on public land] is a deterrent to [fraudsters]...Fraudsters and CMCs would immediately recognise the opportunities which would be created by the comprehensive option and the lack of any potential police presence [on private land].”
- 3.81 The ABI commented that insurers might have similar difficulties accessing private land to conduct an investigation into a claim without the consent of the landowner.
- 3.82 Other organisations such as the British Motorcyclists’ Federation and National Farmers Union (NFU) stated that fraudulent activity on private land would be particularly difficult to detect.
- 3.83 A number of respondents pointed out the consequences of increased fraud generated by the comprehensive and amended Directive options. Examples include:
  - an increase in the number of claims to insurers, especially given the anticipated difficulties of detecting fraudulent claims on private land; and
  - an increase in motor insurance premiums as a result of motor insurers having to deal with more claims.
- 3.84 The third most common theme involved respondents commenting on the need for new or increased anti-fraud measures to combat an increase in fraudulent activity under the comprehensive option. Respondents’ suggestions for deterring and combatting fraud generated by both policy options can be found in the summaries of responses to Questions 16 and 18 (see pages xx and yy respectively).

**Q18. What ideas do you have for combating any fraud which might be generated by the two main options in this consultation?**

**Table 18: Q18 most common themes**

Theme	Number of times mentioned
Obtain more information on vehicles and drivers / users	66
Harsher punishment for fraud	29

- 3.85 The most common suggestion mentioned by respondents was to obtain more information on drivers and vehicles, so as to increase the likelihood of detecting a fraudulent claim. Respondents suggested that this information could be stored on visible insurance discs or QR codes. Law firm DWF LLP commented that “the Insurance Fraud Register should be expanded to include the newly-in-scope vehicles, and the recommendations of the Insurance Fraud Taskforce should also be taken forwards so as to include newly-in-scope claims.”
- 3.86 Others stated that fraudulent claims could be identified using telematics policies, on-board vehicle cameras and more widespread use of CCTV. The increased



involvement of the police in claims investigations was also suggested. For example, Aviva called for “the mandatory reporting of all accidents to the police which include personal injury and involve a vehicle to which compulsory insurance applies.”

- 3.87 Similarly to Q16, a number of respondents suggested harsher punishments to combat fraudulent claims. Examples mentioned include longer prison sentences and confiscating and crushing vehicles.
- 3.88 The Motor Insurers’ Bureau commented that there would need to be a change in approach to tackling fraud under the two main options: “the focus of fraud investigation may need to switch from the individual claimant to the organisers of fraud and the role of the Insurance Fraud Bureau (IFB) in their analytical work.”

## 4. Next steps

- 4.1 We will be publishing a government response to this consultation in due course, which will set out the proposed way forward.

## 5. Annexes

### Annex A: List of organisations which responded to the consultation survey

5.1 The 87 organisations which responded to the consultation survey are listed below.

360 Motor Racing Club Limited	Keoghs
A to E Commercials	KTM Sport Motorcycle UK Ltd
AA	Leamington Victory Motorcycle Club
Ageas	Managing General Agents' Association
Agricultural Engineers Association	Maxxis International UK plc
Alcon Components Ltd	Mid Devon Tractor, Engine and Machinery Group
All Party Parliamentary Group on Formula One	Moore Large and Co Ltd
Allianz Insurance Plc	Motor Insurers Bureau
Anglo American Oil Company	Motor Sports Association
Association of British Insurers and Insurance Fraud Bureau (joint response)	Motorsport Industry Association
Association of Personal Injury Lawyers	Motoworks Cambridge
Austin 7 Clubs Association	MSV Group Limited
Aviva	Mv Sports Ltd
B&C Express Ltd	National Association of Road Transport Museums
Bicycle Association	National Caravan Council
BLM	National Farmers Union
British Gliding Association	Nene Valley Gliding Club
British Healthcare Trades Association	NFU Mutual Insurance Society
British Insurance Brokers' Association	NFU Scotland
British Motorcyclists Federation	Piaggio Limited
British Toy & Hobby Association	Police forces across Wales
British Vehicle Salvage Federation	Police Service of Scotland
Broker Direct Plc	Prodrive Motorsport Limited
Chiltern Young Riders	RAC Foundation
Citroen Car Club Ltd	RAC Motoring Service
Clements Moto Ltd	Raleigh UK Ltd

DAC Beachcroft Claims Limited	Renthal Ltd
Decathlon UK Ltd	Scottish Courts and Tribunals Service
Direct Line Group	Solon Underwriting Ltd
Disabled Motoring UK	Sport and Recreation Alliance
Dutton Owners Club	Stewarts Law
DWF LLP	Suzuki GB
EDM Precision Technologies Ltd	The Forum of Complex Injury Solicitors
Elite Sports Performance Limited	The Gentry Register
esure Group	The International Organisation of Professional Drivers
Federation of British Historic Vehicle Clubs	The Lloyd's Market Association
Forum of Insurance Lawyers	The Motor Cycle Industry Association, the Auto Cycle Union and the Amateur Motor Cycle Association (joint response)
Forum of Scottish Claims Managers	The Royal Society for the Prevention of Accidents
Freight Transport Association	The Sport and Recreation Alliance
Goodridge Ltd	Vintage Horticultural & Garden Machinery Club
Honda UK	Vintage Sports Car Club
International Underwriting Association of London	Yamaha Motor Europe N.V., Branch UK
Jumpteck Ltd T/A CCM Motorcycles	Zurich
Kawasaki Motors UK	