

Introduction

Results of consultation on proposed changes to the laws governing powered mobility scooters and powered wheelchairs (DfT 2010-10).

1. The Department of Transport's consultation letter of 3 March 2010 set out proposals for changes to the laws governing the use of mobility scooters and powered wheelchairs on the public highway.
2. The consultation period ran from 3 March 2010 to 28 May 2010, and a total of 239 responses were received. We are grateful for the comments made. These have been considered carefully and a summary of them is attached, together with a list of those who responded.
3. The use of mobility scooters and powered wheelchairs on the public highway is governed by the Use of Invalid Carriages on Highways Regulations 1988 (Statutory Instrument 1988 No 2268).
4. In November 2011, the Parliamentary Under Secretary of State, in answer to Parliamentary Questions from Ivan Lewis MP and Annette Brooke MP, listed those issues that were to be taken forward from the consultation.
5. Mobility scooters and powered wheelchairs are referred to as "invalid carriages" in legislation. In this document we refer to them as mobility scooters and powered wheelchairs unless a specific reference to "invalid carriages" has to be made.

Legal Classification

The term "invalid carriage"

6. The term "invalid carriage" is the legal term for mobility scooters and powered wheelchairs but is now considered both outdated and offensive. In addition, technological advances in scooter and wheelchair design mean that a more descriptive term is now appropriate. The majority of respondents to the consultation favoured an alternative term and made a variety of suggestions as to what should replace "invalid carriage". Replacing this term would require an amendment to the Chronically Sick and Disabled Persons Act 1970 (paragraph 20 (2)). We are considering the suggestions, and will seek a suitable legislative opportunity in Parliament to make such a change.

Design standards

Maximum speed for Class 3 vehicles

7. In the UK, Class 3 vehicles are limited to a maximum speed of 8 mph, for use on the carriageway. They may travel at no more than 4 mph on the pavement. The consultation sought views on whether vehicles should be

designed to be capable of a higher speed than 8 mph, and whether a higher maximum speed should be permitted in law.

8. The majority of respondents did not favour a design change to permit a higher maximum speed of 8 mph. Concerns were raised about the consequences of a vehicle being involved in a collision, given that a vehicle may weigh up to 150 kgs (unladen weight). Mobility scooters and powered wheelchairs themselves do not offer the same protection as motor vehicles. Concerns were also raised about the stability of a vehicle if a higher speed was permitted. Those in favour of an increase argued that it would reduce congestion, enable users to take evasive action more quickly and reduce danger on the carriageway. Representations have also been made to the Department to permit a higher maximum speed of 15 kph (9.37 mph) to bring the UK in line with other European countries.

9. Given the overall concerns about safety, we consider the current maximum speed of 8 mph for class 3 vehicles to be appropriate and propose that it should not be changed.

Unladen weight limits

10. The majority of respondents considered the current weight limits appropriate. As with higher maximum speeds, there were concerns about the consequences of a collision.

11. The issue of access to public transport has also been taken into account in considering the weight increase. The Transport Select Committee, in their Ninth Report of Sessions 2009 – 10, recommended that the Department should consider the carriage of mobility scooters on public transport. We are considering options that could permit greater access to public transport for mobility scooter users. In doing so, we have to have regard to the possibility that any major weight increase could affect the safe operation of access ramps for trains, light rail, buses and taxis; and the safe operating weight of tail lifts for vehicles being used for community transport e.g. minibuses.

12. Representations have been made to the Department about increasing the unladen weight for powered wheelchairs, which are intended to help those with more acute clinical needs. Technological developments in recent years have meant that more on-chair equipment is available to help people's medical needs. Examples of such equipment are 'tilt in space' mechanisms, back recline mechanisms, posture support and 'sit to stand' mechanisms which can improve the circulation and the functioning of internal organs. It has been suggested that the weight of a Class 2 wheelchair could be increased to the same level as a Class 3 vehicle (150 kgs), as this would help children under 14 years with acute clinical needs who may need a powered wheelchair; and that the overall weight of all powered wheelchairs should be permitted to exceed 150 kgs. We propose to increase the permitted unladen weight of Class 2 powered wheelchairs to a maximum of 150 kgs, and will amend the regulations accordingly.

Carriage of a baby or young child on a mobility vehicle

13. The Chronically Sick and Disabled Persons Act 1970 defines an “invalid carriage” as follows:-

Section 20 (2) "*invalid carriage* " means a vehicle, whether mechanically propelled or not, constructed or adapted for use for the carriage of **one** person, being a person suffering from some physical defect or disability;

14. There was a small majority of respondents in favour of permitting the carriage of a baby or a young child on a mobility vehicle. It is the Department's view, that if a vehicle is adapted to carry a child, or if a pouch, sling or any other means of carrying a child is attached to the vehicle, the law does not permit this. However, the law does not explicitly state that a parent or guardian carrying a child in a pouch or a sling on their person, as an adult who was not disabled would do, is unlawful. There are obvious safety reasons why a baby or young child should not be permitted to be carried on the vehicle, and we have therefore decided that, on this issue, there is not a pressing case to make any changes to legislation.

Safer vehicle design

15. The majority of respondents favoured the use of technology to help reduce the severity of any collision in which the vehicle might be involved. A small majority of respondents were not in favour of increasing the unladen weight to take account of such improvements. However, as indicated at paragraph 12 (above), we have decided that the maximum unladen weight of Class 2 powered wheelchairs should be increased to 150 kgs.

Additional requirement to make mobility vehicles more conspicuous for safety

16. A number of suggestions were made about making vehicles more conspicuous, such as the addition of reflective strips. We considered that the addition of reflective strips should be a matter for individual vehicle owners and, therefore, we do not consider additional legislation to be appropriate. Vehicles already have to satisfy the lighting requirements set out in the Road Vehicles Lighting Regulations 1989.

Users of mobility scooters & powered wheelchairs

Minimum age to use a Class 3 vehicle

17. The Use of Invalid Carriages on Highways Regulations 1988 prescribes as a condition of use that a Class 3 mobility vehicle user must be aged at least 14 years. The majority of respondents were in favour of retaining this condition. As mentioned in paragraph 12 (above), we are aware of the needs of younger wheelchair users who suffer from more acute clinical conditions. However, we believe that it is prudent to retain the age restriction for using a Class 3 vehicle.

Improving information and advice for mobility vehicle users

18. The majority of respondents believed that better information should be made available to assist mobility vehicle users. The Department has published a Code of Practice for Class 3 vehicle users. This publication is now out of date. It does not contain, for example, any information about the requirement to register Class 3 vehicles with the Driver & Vehicle Licensing Agency; nor does it contain any advice about Class 2 vehicles, or any information about accessing public transport vehicles. The Department has therefore produced revised guidance for users which we are publishing in conjunction with the results of this consultation.

Compulsory training and assessment for users

19. There are no mandatory standards to determine who is fit to use a vehicle, and no legal requirement for training and testing. A number of local authorities, voluntary sector organisations and retailers provide training and advice to enable people to choose a vehicle that best suits their needs, and to be able to use it safely. NHS wheelchair services are required to assess the needs and abilities of their patients before prescribing a wheelchair, and to provide basic training to ensure that they can use them safely.

20. Over two thirds of the respondents were in favour of compulsory training, and made a variety of suggestions about how this could be organised and funded. There are significant issues about making training compulsory, such as the responsibility for the standards that would be applied, which body would apply them, how trainers are themselves to be trained and assessed, as well as the question of how such training and assessment should be funded. We have concluded that training and assessment should remain voluntary but that we will look at ways in which it can be promoted more widely.

Mandatory eyesight test for vehicle users

21. Currently, there is no legal requirement for a user to meet an eyesight requirement. The consultation paper did not specifically seek views on a mandatory eyesight test, but sought general views on people's fitness to drive, what should be included in any assessment and who should carry out such assessments. Visual ability was among the suggestions to be included in an assessment. For many years, the Department for Transport has recommended that people should be able to read a vehicle number plate from a distance of 12.3 metres (40 ft). We consider it reasonable that users should have to satisfy a visual standard in the interests of their safety and the safety of others, especially given that Class 3 mobility vehicles may use the public highway and that Class 2 vehicles, while generally intended for pavement use, may also use the public highway where no pavements are present. We have concluded that the issue of eyesight testing in respect of Class 3 vehicle users needs further consideration. We will be reviewing with interested parties the available evidence and options.

Using vehicles

Is a registration scheme needed?

22. Currently, new and second hand Class 3 mobility scooters and powered wheelchairs have to be registered and licensed with the Driver & Vehicle Licensing Agency (DVLA) in the disabled vehicle taxation class, and display a nil duty tax disc. The consultation sought views on whether this registration scheme was still needed and, if so, how it could be improved; if the current arrangements could be replaced with locally run schemes; whether Class 2 vehicles should also be registered; and whether the vehicle or the user should be registered. There was strong support for the registration process to continue, along with numerous suggestions as to how it might be improved and better enforced. Views opposed to registration considered it to be too bureaucratic and costly, with no real benefit; and that mobility vehicles should be treated as medical devices rather than as modes of transport. We have decided not to make any changes to the current registration arrangements.

Compulsory 3rd party insurance.

23. There is no legal requirement for users to take out a minimum of 3rd party insurance cover. However, it is strongly recommended, and the Department has included this message in its advice to mobility scooter and wheelchair users. A large majority of responses to the consultation were in favour of compulsory insurance but significant concerns were also raised, including the possible need to link it to a comprehensive registration and licensing system as in the case of motor vehicles. It could unfairly penalize older or disabled people; it could be seen as discriminatory, given that cyclists are not required to have insurance; and that there is currently no reliable evidence to show that the use of mobility vehicles causes a major public safety issue. We have concluded that the available evidence regarding insurance needs to be looked at again with interested parties.

Criminal offences

24. Section 35 of the Offences against the Person Act 1861 (“Drivers of Carriages injuring Persons by furious Driving”) makes it an offence to injure another party by dangerous or irresponsible use of a “carriage”. This piece of Victorian legislation may be applied to the dangerous use of an “invalid carriage”. The consultation sought views on whether this could be replaced by a more contemporary offence, and on whether some of the offences that apply to motor vehicle users should apply to scooters and wheelchairs. Of those who responded, a majority considered that Section 35 was still adequate.

25. We have therefore decided that the 1861 Act should not be replaced. There is currently no firm evidence about the extent to which the use of scooters and wheelchairs is a public safety issue. From 2013, however, the police will be able to record whether a vehicle has been involved in an accident on the public highway. The Department is committed to looking at how current legislation could be better enforced.

Other issues

Helpful data to record

26. Currently, no data concerning scooters and wheelchairs is routinely recorded other than that collected by the DVLA for the registration of Class 3 vehicles (see paragraph 22, above). There was general support for recording more data. As noted in paragraph 25 (above), accident data for mobility scooters and wheelchairs will come on stream in 2013.

The carriage of mobility scooters on public transport

27. The carriage of mobility scooters on public transport vehicles was not covered in the consultation, but has been raised by the Transport Select Committee. Currently, whether to transport a mobility scooter with the occupant, or unoccupied as an item of carry-on luggage (either folded or fully assembled), is a matter for transport operators, based on their own risk assessments.

28. The Department has worked with the Confederation of Passenger Transport, who have produced a Code of Practice regarding carriage on low floor buses. Train operators have their own individual arrangements. The Department continues to work with transport operators and the industry to develop a kite marking scheme, for carriage on public transport. The aim is to enable a disabled person to have more confidence that they can travel with their mobility scooter. The Department will also work with the industry and suitable designs for public transport.

29. A wheelchair (whether manual or powered) can be carried on buses and rail if it complies with the dimensions of the “reference wheelchair”, namely an overall width of 700mm, length of 1200mm and height of 1350mm. These dimensions are based on the international wheelchair standard and are bigger than the majority of wheelchairs.