

COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE

27 SEPTEMBER 2021

REPORT OF ACTING DIRECTOR OF PLANNING

A.2 THE LAWFUL AND UNLAWFUL USE OF E-SCOOTERS AND THE EXTENT OF POLICING/ACTION AGAINST THOSE UNLAWFULLY USING THEM.

(Report prepared by Gary Guiver, Paul Woods and Leanne Thornton)

PURPOSE OF THE REPORT

The report provides information on the current position in relation to the use of e-scooters and policing action against those who use them unlawfully.

INVITEES

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BACKGROUND

Views differ on the potential benefits and problems presented by e-scooters. Some believe that they offer solutions to a wide range of transport policy goals (such as reducing pollution, congestion), while others believe that they are potentially dangerous and may undermine messaging about active travel and green transport.

While it is legal to buy or sell an e-scooter (classed as a battery-powered personal transport device), riding them on public roads, pavements or cycle lanes is against the law. Riders could face a £300 fine and six points on their licence if they use them on public roads or pavements. Riding e-scooters on private land is legal with the landowner's permission.

In the spring / summer of 2020, the Department for Transport (DfT) announced a proposal to trial the use of electric scooters in named pilot areas. Local authorities were encouraged to apply to become a pilot area, and Essex County Council (ECC) drafted proposals for Basildon, Braintree, Brentwood, Clacton, Chelmsford and Colchester. ECC then identified a preferred supplier – Spin – and submitted these proposals to the DfT.

ECC, in partnership with Spin, launched the trial in Clacton on 1 March 2021. Under the trial, e-scooters hired from Spin may be ridden on roads and cycle paths. There are currently 150 Spin e-scooters in Clacton, and the town is approaching 30,000 rides since the trial began. The trial will run until the end of October 2021, but consideration is being given to extending the trial until March 2022.

DETAILED INFORMATION

Legal Background

E-scooters are covered by the same laws and regulations that apply to all motor vehicles.¹⁴ This means e-scooters need to meet the various requirements of the Road Traffic Act 1988 to use public roads lawfully (e.g. road tax, technical safety standards). The e-scooters currently on the market or available via hire schemes do not meet these requirements.

The 1988 Act (section 34) together with the Highways Act 1835 (section 72) also bans e-scooters (or as the law refers to them 'mechanically propelled vehicles') from pavements, cycle paths and public footpaths. This means that riders could face a £300 fine and six points on their licence if they use them on public roads or pavements.

Riding e-scooters on private land is legal only with the landowner's permission.

E-scooter Trials

From 4 July 2020, local areas in England, Scotland and Wales have been able to undertake 12-month e-scooter rental trials, provided they meet DfT's requirements. The trials will be used to inform future government policy and possible legislative change. Trials have been launched in 32 trial areas across a mixture of towns, cities, local authorities and combined mayoral authority areas – including in Clacton on Sea.

During the trials:

- Rental e-scooters will be allowed on roads and cycle lanes, but will continue to be banned from pavements;
- E-scooters will be limited to a maximum speed of 15.5 mph (**in Clacton, the maximum speed is 12.5mph**);
- Riders should wear helmets, but they will not be mandatory;
- Privately-owned e-scooters will remain illegal; and
- Riders will need a full or provisional car, motorcycle or moped licence to use the devices, and they must be aged 16 or over.

The Electric Scooter Trials and Traffic Signs (Coronavirus) Regulations and General Directions 2020 (SI 2020/663) provide the legislative basis for the e-scooter trials. They define 'e-scooters' and amend road traffic regulations to exempt e-scooters being used in a trial from certain requirements of the Road Traffic Act 1988.

Regulation 2(3) of the 2020 Regulations defines an e-scooter as a vehicle that:

- is fitted with an electric motor with a maximum continuous power rating not exceeding 500 watts;
- is not fitted with pedals that are capable of propelling the vehicle;
- has two wheels, one front and one rear, aligned along the direction of travel;
- is designed to carry no more than one person;
- has a maximum weight, excluding the driver, not exceeding 55 kgs;
- has a maximum design speed not exceeding 15.5 miles per hour;
- has a means of directional control through the use of handlebars which are mechanically linked to the steered wheel;
- has a means of controlling the speed through hand controls; and

- has a power control that defaults to the 'off' position.

There are two requirements in primary legislation that will continue to apply to e-scooters in the trials:

- E-scooters in trials need to be covered by a motor vehicle insurance policy (**Spin has arranged insurance for authorised riders within the Clacton trial, and has a separate insurance policy for parked/unattended e-scooters**); and
- E-scooter users need to have a valid driving licence (provisional or full).

E-scooters which are not part of the trials will remain illegal on roads, cycle lanes and tracks, and on pavements.

Enforcement Issues

The Lawful use on the public highway

Individuals that have a valid driving license can assess & use the legal e-scooters. The e-scooters must be ridden on a highway and must follow the highway code whilst using the vehicle.

The Unlawful use on a public highway

Any individual that is either riding a legal e-scooter unlawfully, such as riding without a valid driving license or disregarding the highway code, or is riding an unlicensed e-scooter will face positive action. Positive action will depend on the offence committed and the age of the rider– but could result in the e-scooter being seized and destroyed and the individual sent to magistrates court for contravention of Traffic Offences.

Misuse of hired e-scooters covered by the DfT's trial

E-scooters hired from Spin are equipped with GPS tracking devices, which allow the e-scooters to be 'geo-fenced'. This means that in certain areas of the town the e-scooters will go slower (e.g. the cycle lanes along the promenade), and in other areas they will not work at all (e.g. recreation grounds, and the multi-storey car park).

As all e-scooters are equipped with GPS tracking and are hired by the minute, misuse or illegal riding at a particular place and time can be tracked to a specific user.

As with any other type of vehicle, responsibility for addressing illegal riding rests with the police. Nevertheless, Spin take a proactive approach towards preventing misuse of their e-scooters. Spin's e-scooters are easily identifiable – due to their distinctive orange colour and large logo on the front – and the company encourages members of the public to report issues such as inconsiderate parking, riding on pavements, underage riders and more than one rider per e-scooter directly to them.

Users can have their accounts suspended for misuse, or be banned entirely depending on the severity of their infringement.

As well as direct enforcement against users who misuse their e-scooters, Spin also have preventative and educational strategies to help ensure e-scooters are used safely. All users must complete and pass in-app training – which features a quiz to ensure riders

understand where the e-scooters can and can't be used, and how to park them considerately – and regular in-app notifications provide reminders of the rules and laws.

In May, Spin ran a training event in the Leisure Centre car park – where 69 riders received in-person training on how to use the e-scooters safely, and each were given a free helmet on completion of the course.

Tendring Police currently have an operation underway to tackle the unlawful use of e-scooters, to include a media campaign, unfortunately the e-scooters are being seen as a toy by many and therefore perfectly acceptable, but only on private land, such as their own back gardens and absolutely not the public highway or pavements.

RECOMMENDATION

That the Committee determines whether it has any comments or recommendations it wishes to put forward the relevant Portfolio Holder or Cabinet.