

Chambers Ireland response to the TRL report on eScooters for the Department of Transport, and the associated policy paper

February 2021

Chambers Ireland supports the TRL's report in its recommendations. The vast majority of which are in line with Chambers Ireland's recommendations¹ to the Department regarding Personal Powered Transporters and are coherent with the submission² we made to the Department as part of the Sustainable Mobility Review.

As the language has not been consistent across all documents, we will continue to use the language of the original Personal Powered Transporters consultation to avoid confusion in terms.

Chambers Ireland's position remains where we were when we submitted to the Personal Powered Transporters Consultation, which is very closely aligned with the TRL report, on which we make a small number of additional observations.

We have some areas where we have concerns regarding the policy proposal, often in areas where the policy paper deviates significantly from the TRL report, we have outlined both where we have concerns and where we are in agreement with the Department's policy paper.

¹ <https://www.chambers.ie/wp-content/uploads/2019/11/Chambers-Ireland-PPT-submission-November-2019.pdf>

² <https://www.chambers.ie/wp-content/uploads/2020/03/Chambers-Ireland-Sustainable-Mobility-Consultation.pdf>

Table of Contents

Observations that follow from the TRL Report	3
Regarding TRL Recommendation 1:	3
Regarding TRL Recommendation 2:	3
Regarding TRL Recommendation 3:	4
Regarding TRL Recommendation 4:	5
Regarding TRL Recommendation 5:	5
Regarding TRL Recommendation 6:	6
Observations that follow from the “Policy Proposal on how e Scooters will operate”	7
Regarding the “Proposed new definition in Road Traffic (Miscellaneous Provisions) Bill”	7
Regarding “Rental Schemes”	8
Regarding “Where PPTs may be used“	9
Regarding “an age limit”	11
Regarding “Motor Tax and Motor Insurance, Drivers Licence”	11
Regarding “Registration”	12
Regarding “Safety”	12

Observations that follow from the TRL Report

Regarding TRL Recommendation 1:

1. Agree clear terms for vehicle classification. The classification must be able to accommodate different scooter (and other vehicle) types in order to future-proof against further technology innovation. Further, classifications should be based on considerations of safety, not (for example) on specifics of vehicle design such as starting mechanism, or size.

Chambers Ireland strongly supports TRL Recommendation 1, in particular the need to thoughtfully future proof the legal definitions.

Regarding TRL Recommendation 2:

2. Promote the use of helmets and other protective equipment. This could take the form of an awareness campaign for educating the public and also engagement with sharing scheme providers, manufacturers and retailers.

Chambers Ireland also welcomes TRL Recommendation 2 strongly, particularly the regarding the voluntary, but promoted and supported, status of personal protective equipment.

Regarding TRL Recommendation 3:

3. Consider issuing a set of advisory guidelines for both individual users and users of sharing schemes. Whilst there is little robust evidence from which to develop specific restrictions there are several basic principles on which guidelines can be based:

- Guidelines should minimise the likelihood of high-speed interactions, for example prohibiting devices from high-speed roads
- Guidelines should consider other road users, for example if devices are allowed on pavements, there could be a maximum speed of 6 km/h to protect pedestrians.
- Allow flexibility for local authorities to implement these guidelines as appropriate for their jurisdictions, whilst avoiding inconsistency and confusion.

If possible, these guidelines should be created in consultation with sharing scheme providers, local authorities and the Police.

Chambers Ireland strongly supports TRL Recommendation 3, particularly the opportunity Local Authorities will have to tailor guidelines according to local needs, and upon the need to:

- a) be flexible in the local application of these guidelines, and
- b) the need to work with sharing scheme providers when those are being implemented on the ground.

Regarding TRL Recommendation 4:

4. Promote the need for safe use of these devices amongst the public and if possible encourage opportunities for training or familiarisation prior to use in public. This could be carried out alongside recommendations 2 and 3.

Chambers Ireland concurs with TRL Recommendation 4, and suggests that (in the initial period at least) the department subsidises safety training for both

- a) those that already have Personal Powered Transporters which they are using, and,
- b) those who are purchasing a new one

So that the safety elements, and particularly any risks unique to Personal Powered Transporters (or a particular product line of Personal Powered Transporters) are well understood by the end user of the vehicle.

Regarding TRL Recommendation 5:

5. Consider methods of implementing minimum safety standards for the vehicles themselves. One option would be to use the draft European Standard as the basis for a voluntary certification scheme.

Chambers Ireland is supportive of TRL Recommendation 5 and would welcome the introduction of an EU standard which would be consistent across the member countries but is concerned people adapting their Personal Powered Transporters to operate outside of minimum safety standards, if those were to be introduced.

There is, in all electric vehicles, then opportunity to ‘tune’, modify or adapt the software, and (more rarely) the mechanics, of a vehicle so that a standard unit can operate outside of its original parameters (this could include adapting the power output to increase acceleration, or removing speed limiters on a vehicle).

Obviously, a vehicle which is operating outside of its permitted operational parameters would no longer be a road legal vehicle and it would be an offence to use such a vehicle, we would therefore suggest that Gardai have the powers to confiscate Personal Powered Transporters that they have reason to believe have been modified such that they operate outside of those guidelines, and that is should be a separate and specific offence to modify a Personal Powered Transporter so that it may operate outside of its permitted parameters.

Regarding TRL Recommendation 6:

6. Carry out further research into the safety features which should be mandatory, how powered transporter riders are likely to interact with other road users, and what operational guidelines should be produced to minimise risk.

Chambers Ireland strongly welcomes TRL Recommendation 6 and argues that any risk mitigation guidelines be supported by robust scientific findings and research.

Observations that follow from the “Policy Proposal on how e Scooters will operate”

Regarding the “Proposed new definition in Road Traffic (Miscellaneous Provisions) Bill”

Chambers Ireland has some concerns about the schema for the definition that has been proposed, specifically in relation to the ‘permissible technical standards’ and the risk in over specifying them. “Personal Powered Transporters” as a category covers a wide range of novel vehicles and there is a risk that an overly confining definition (say, one that includes restrictions on wheel sizes) would undermine the utility of the legislation or would leave the amended Road Traffic Act in need of further amendments whenever a technical innovation occurs. This would be counter to the TRL Recommendation 1, insofar as over specifying what qualifies as a Personal Powered Transporter would ensure that the amended act would not be ‘future proofed’, just as the current regulations regarding the type of light one must use on a bicycle (such as the “illuminated area”) have been superseded with the advent of LEDs.

Chambers Ireland’s suggestion is that the legislation defines that parameters within which a Personal Powered Transporter may be permitted to be used in public spaces (e.g. top speed, power output, minimum time/distance to stop for varying road conditions, minimum breaking power etc.)

For example, certain vehicles on the market do not have brakes per se, but they do allow regenerative breaking as they use the motor of the vehicle as a generator that stores the kinetic energy in the battery.

A legal framework that allows vehicles to operate within certain parameters and does not allow them to be modified outside of those parameters has multiple benefits. Principally, it is future proofed, secondly it allows for domestic innovations, thirdly it facilitates people fixing, upgrading, or adapting their Personal Powered Transporters within that defined space.

But simultaneously it allows for an act that pushes an otherwise road legal vehicle beyond those parameters to be illegal, while still allowing people to build/use/create their own Personal Powered Transporters for use in private spaces (if they chose to do so, but not by taking an otherwise road-legal vehicle and adapting it – which could create difficulties on the secondary market where people have adapted a vehicle beyond what was originally road-legal, and sell it to someone who is unaware of its now illegal status).

Regarding “Rental Schemes”

Chambers Ireland has argued that the **powers for regulating shared usage schemes should be derogated to Local Authorities** that those schemes are operating within, rather than the NTA or the Department of Transport itself, given the different kinds of users that may emerge, and so different forms of shared usage schemes may be appropriate for different areas (areas which have large tourism industries would have different kinds of needs than urban areas, which in turn would be different to what would be needed in outlying commuter towns).

Regarding “Where PPTs may be used“

Chambers Ireland agrees with some elements of the Department’s proposals here but has serious concerns about certain other ones.

Chambers Ireland agrees that Personal Powered Transporters be permitted on bus lanes and cycle infrastructure (including cycle-paths and green-ways), and excluded from use on Motorways.

Regarding pedestrian areas and footpaths, we would argue that it is more appropriate that the usage of Personal Powered Transporters be restricted in terms of access or maximum speeds (where or when appropriate) by local authorities.

For example, it would be unfortunate if children were force out onto roads which lacked safe cycle infrastructure on their way to school because footpaths that were not particularly busy otherwise were forbidden to them. Similarly, it is strange that pedestrian areas which are open to goods vehicles during commuting hours are not also open to other safer vehicles at the same time, or indeed during quieter hours of the night when public transport is less available and so Personal Powered Transporters are likely to be of great utility.

There is a strongly gendered aspect to this suggestion regarding the usage of Personal Powered Transporters in pedestrian areas, particularly during the later hours. Much like riding a bicycle, the usage of Personal Powered Transporters is gendered but there are strong arguments to believe that the usage of Personal Powered Vehicles can have of use in keeping women safe while moving at night.

Like with cycling, there is less opportunity for women to experience street harassment, they do not have to get into a vehicle with an unvetted stranger, they can't be followed from a bus/train etc.

Introducing regulations that would force female users to dismount on otherwise quiet streets where they could use their Personal Powered Transporters safely would be to make them vulnerable to theft (of the Personal Powered Transporter itself) and also potentially subject to harassment. This is disproportionately likely to exclude women from using these vehicles which will further worsen the existing gender imbalance.

Chambers Ireland strongly disagrees with the proposals regarding National Primary and Secondary Routes.

National routes currently permit cycling. Many national routes, even in our cities are very ordinary roads, which do not have continuous bus-lanes or cycle paths. For example, Mount Merrion Road, along the N31, does not have cycle paths or a bus lane, but is barely distinguishable from other nearby roads where the usage of Personal Powered Transporters is permitted. The quays in cork are almost exclusively National routes so this rule would largely remove their utility in Cork city.

The Road infrastructure of the R137 is indistinguishable from the road infrastructure on the far side of the M50 where it becomes the N81, yet Personal Powered Transporters and bicycles will be allowed on one side but only bicycles will be allowed on the far side. The N81 later becomes the main street of Blessington, so as a small linear town, the use of Personal Powered Transporters would effectively be curtailed. Similarly, the N67 is the main street of many of the towns and villages it passes through are in areas which historically have a large amount of tourism which could be detrimentally impacted by this decision.

There is an argument that if there isn't safe and secure transport infrastructure the usage of Personal Powered Transporters may be less safe than in areas where that infrastructure exists. But it is just as unsafe to be a cyclist, or on an eBike, on those same roads. This is an argument for making safer infrastructure for non-car users, not an argument for banning the usage of Personal Powered Transporters.

Chambers Ireland is particularly concerned that this decision will have a disproportionate effect on workers that are commuting, both those that could use multi-modal transport options, and those within cities that could substitute using their Personal Powered Transporter for using their car. If we make it more difficult to use a Personal Powered Transporter than to use their car, we will end up with less people using this far more environmentally sound mode of transport.

Regarding “an age limit”

Chambers Ireland would suggest that it is too late to be imposing an age limit on these vehicles because of how many are being used by school age children already, particularly given the rapid expansion of usage we have seen over the lockdown periods.

Regarding “Motor Tax and Motor Insurance, Drivers Licence”

Chambers Ireland agrees entirely with the Department in this.

Regarding “Registration”

Chambers Ireland is in largely in accord with the Department regarding the utilisation of a CE mark and the associated Market Surveillance we would be slow to recommend the registration that the department is suggesting, not least because this would likely result in more online sales (which could see the introduction of not road-legal Personal Powered Transporters) and given the large numbers of currently unregistered Personal Powered Transporters that exist, it is likely that the secondary market will be dominated by unregistered vehicles for a considerable time to come.

Regarding “Safety”

Chambers Ireland believes that any safety regulations should be firmly footed in scientific evidence and have noted our concerns³ that very often safety recommendations in Ireland have not been founded on a reliable, sound, and robust evidence base.

We would also note the detrimental effect on cycling rates that mandatory usage of helmet and high visibility clothing laws have had⁴, and the corresponding increased rate of injury and accidents that the remaining cyclists endure as a result of such laws^{5 6 7}

We see no reason as to why it would be different for users of Personal Powered Transporters, the consensus view it that the increased rate of injury/cyclist or /km cycled is related to there being few cyclists on the road, and therefore drivers are less accustomed to reacting appropriately to a cyclist.

³ <https://www.chambers.ie/wp-content/uploads/2020/12/Chambers-Irelands-submission-for-the-RSA-Consultation-on-the-Road-Safety-Strategy-2021-2030.pdf>

⁴ [https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(19\)30323-2/fulltext](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(19)30323-2/fulltext)

⁵ https://www.researchgate.net/publication/337367329_Effects_of_bicycle_helmet_wearing_on_accident_and_injury_rates

⁶ http://www.cycle-helmets.com/helmet_statistics.html#

⁷ <https://www.aihw.gov.au/reports/injury/pedal-cyclist-injury-deaths-hospitalisations/contents/table-of-contents>

Making helmets, or the like, mandatory will discourage many from using Personal Powered Transporters and so individual drivers will encounter them less frequently, and so are more likely to make driving errors that results in a collision that injures the person on the Personal Powered Transporter.

There are two ways to make Personal Powered Transporters safe for ordinary use:

Firstly, build parallel infrastructure for cyclists and those on Personal Powered Transporters where possible (and Chambers Ireland supports this)

And, where this is not possible to have separate transport infrastructure for cyclists and people on Personal Powered Transporters, then encouraging sufficient numbers of people to use those modes of travel so that other road users encounter them frequently on the road is the most effective course of action.