

**Submission to the Senate enquiry regarding**

**The need for regulation of mobility scooters, also known as motorised wheelchairs;**

Submission by Nigel Caswell President People with Multiple Sclerosis Vic Inc; 13 January 2018

**Introducing myself**

I have had MS for many years, and as a result have a severely limited ability to walk. I use a walker or crutches around the house, and use a mobility scooter or a motorised wheelchair for travelling anything more than 50 metres.

I have been using a mobility scooter or motorised wheelchair for some ten years and during that time I have owned several different machines.

I currently have two electric mobility scooters and one motorised wheelchair which have been selected to serve different purposes:

Both scooters are small and portable

- One is used primarily for supermarket or shopping centres and is carried to and from in the rear of a family station wagon it is the smallest and lightest and folds up for transporting. Like most small scooters it has solid wheels and tyres.
- The other is used for more general use and is carried with us when we go away in our caravan. It is slightly bigger and heavier than the one above but also folds up for transporting. The big difference is that this one has a sprung seat and pneumatic tyres making it more capable of traversing sand, gravel, grass, and other unpaved surfaces. It is relevant to this submission to note that this scooter has two speeds, controlled by a switch which when turned on limits the vehicle maximum speed of the vehicle to a gentle walking pace.

My wheelchair is medium sized chair it does not have powered seat but does have with two electric driving motors therefore it is highly manoeuvrable. I use this for journeys from home when I might otherwise have walked. I have and still do use it regularly on public transport; busses and trains in Victoria are generally very good and easy for wheelchairs to use.

I have travelled overseas extensively with my mobility scooters and have used them as a tourist in Canada, USA, New Zealand and UK

I provide the above information to demonstrate that I have considerable experience using mobility scooters and motorised wheel chairs and the following comments are based on firsthand experience.

Nigel Caswell O.A.M.

President, People with MS Vic, Inc

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**Submission**

I note the terms of the enquiry and I proposed to address (b) to (f)

- b, the causes of accidents involving mobility scooters;
- c, any current regulations governing the use of mobility scooters throughout Australia;
- d, comparison of Australian regulations with international standards;
- e, what support structures are in place to ensure the safe operation of mobility scooters;
- f, the regulatory role of government and non-government bodies;

I make two recommendations; one regarding speed limits, and one regarding the provision of training and information to prospective scooter users.

### **The causes of accidents involving mobility scooters;**

It is my observation that the cause of most accidents involving mobility scooters is the lack of knowledge of the users

- Lack of how to use their machine safely
- Lack awareness how their machine will behave when treated in a particular way
- Lack of courtesy to others, and
- Lack of an ability to anticipate how others may behave.

I have seen three incidents where the user has tipped the machine over into the road; all three were due to the user not approaching a kerb edge appropriately.

- In one case the scooter user approached the kerb-ramp at angle so that one wheel went off the kerb and dropped to the road surface rendering the scooter unstable and causing it to tip over.
- In the second case the scooter approached a driveway crossing ramp at an angle at speed. One side of the machine was lifted as it mounted the ramp causing the machine to tip over and almost flip right upside down. Because the machine was still moving forward at speed the user was severely injured.
- The third occasion involved a wheel chair being driven off a kerb-ramp too quickly. The chair tipped forwards and the footrests hit the road surface. It looked as though the machine was going to somersault and land on the user, but fortunately it was not going fast enough and after rocking forward it then rocked back and came to a rest on its footrests in a tipped forwards position.

I am also aware of several incidents where scooters or wheelchairs have hit other people

- In two cases the machines were reversing out of doorways into a public area and people were trying to get in at the same time and in my view the pedestrians and the scooter users were equally at fault. The pedestrians should have allowed the scooter to back out and the scooter driver should have checked more carefully
- In one case the scooter was travelling at speed along a footpath and a pedestrian stepped out of a shop in front of it. The scooter was going too fast but typically the pedestrian did not even think to look.

I have been involved in two incidents myself

- One when I was travelling along a footpath past a gate way and a car reversed out and backed in to me. Fortunately it was going very slowly and I had time to bang the back of the car with the package I was carrying. So no serious damage was done.
- In a second incident a young lady very intent on looking at her mobile phone literally walked into me on my wheelchair and landed on my lap! I do not believe I could have been any more careful than I was in both incidents.

I believe most of these incidents are due to the lack of knowledge on the part of the machine user and this is being caused or at very least contributed to by two things

1. There is no assessment of a person's suitability or ability to safely drive a scooter or wheel chair (refer to the section on regulations) and
2. There is no training or instruction given to people when they buy their first machine (refer to the section on support systems)

### **Current regulations governing the use of mobility scooters throughout Australia;**

It seems to me there are several problems with the current regulations which may in part be summarised by the following extract from the *Australasian Transport Research Forum 2013 Proceedings 2 - 4 October 2013*,

*“Currently there are few regulations governing motorised mobility scooters; there are no regulations governing sales or purchasing and no standards for their design and manufacture; and there are jurisdictional differences in the way MMS are regulated in Australia.*

*Apart for one Australian jurisdiction discussed below which requires the vehicles to be registered, no requirements for competency assessment, training or rider licensing. In most cases the only mechanism for competency testing with a qualified health professional is when a person seeks government assistance to purchase a device, such as the State-wide equipment program (SWEP) funded by the Victorian Department of Human Services which offers a maximum subsidy of \$4,000 for motorised scooters (Victorian Department of Human Services 2010).*

*Nationally MMS are not legally defined as a vehicle, but rather a mobility aid or device, so technically the units cannot be ‘registered’ as they are not a vehicle. However, this is the major difference in regulation with Queensland requiring MMS to be registered. The registration is without cost and includes compulsory third party insurance. A certificate from a health practitioner is required for registration as use is restricted to people who have severe mobility impairment and require the device for assisted travel (Queensland Government 2010). In other states, the alternative source of public liability insurance is via separate private insurance, possibly as part of the owner’s home contents insurance policy.”*

I note that even where medical assessments are made these appear to only relate to what must be wrong with user to see if s/he meets the minimum disability requirements because regulations specify *machines may only be used by a person with an injury, disability or medical conditions which means they have difficulty walking or are unable to walk.*

There appears to be no parallel requirement for an assessment of the person’s competence to use a scooter or wheelchair. Even though (for example) the NSW regulations saying a user must be able to...

- Operate the controls and manoeuvre the machine
- Keep your balance and adjust your body position when you travel across uneven ground
- Spot obstacles and avoid collisions
- Judge speeds and distances
- Make good judgements to protect your safety and others....

.....there is no mechanism in place to ensure these requirements are met or maintained.

In relation to the issue of accidents involving scooters it is worth noting the all states limit the maximum speed of a scooter to 10kph and all except Queensland limit the weight of a machine to 110kg (Qld allows 150kg(?))

### **Comparison of Australian regulations with international standards;**

Many other countries e.g.; Canada, UK, New Zealand appear to be in the same parlous state in having few if any regulations. However, a couple of points worth noting might be;

- New Zealand regulates the power allowable to 1500watts
- UK has lower speed limits for scooters and has different limits for use on footpaths to 4mph-(6kph) and elsewhere to 8mph-(12kph). Moreover scooters are required to be fitted with a device capable of limiting their speed to 4mph –(6kph)

### **What support structures are in place to ensure the safe operation of mobility scooters;**

No support structures are available from government except for machines supplied through mechanisms such as the State-wide equipment program (SWEP) funded by the Victorian Department of Human Services; and I believe these support structures are limited to maintenance. The users I have spoken to often use

private enterprise services in preference if they can afford to because they are more responsive and more supportive.

Numerous private enterprise services are available:

- Bodies like the RACV provide roadside assistance and recovery support and this is free if the user is already a member
- Insurance is readily available from RACV, Blue Badge, and other sources, to covers loss, damage and liability
- Maintenance services are provided by most major retailers of scooters and wheelchairs. They will service the machines at their premises or (for a fee) come to the user's home
- Advice on the need for a machine and its capabilities and equipment is available from occupational therapists. Such advice would cover types of seating and cushions electrically powered seat lifting, specialist controls

However, very often, in my experience, little or no information is provided at the point of sale about safe usage or appropriate maintenance

### **Recommendations and the regulatory role of government and non-government bodies;**

In my view this is not an area which requires a high level of regulation but it does require some and it highly desirable that the regulations be consistent across the country and do not vary from State to State. I make two recommendations:

1. In my view the current speed limit of 10kph (adopted in all States) is too high for vehicles being used in shopping centres, pedestrian malls, on retail area footpaths and in public buildings such as museums and galleries.

**Recommendation; that Australia copies the UK and has a two level speed limit**

- a. **6kph for areas such as centres, pedestrian malls, on retail area footpaths and in public buildings**
- b. **10kph upper limit for use in other circumstances e.g. if the scooter has to use the roadway; and**
- c. **That all new scooters are required to be fitted with a device capable of limiting their speed to 6kph**

2. There is a need for a minimum level of training and information to be provided to all persons purchasing a mobility scooter or motorised wheel chair (or provided to the intended user if that person is not the purchaser). This training and information should provided before the purchase is completed and should cover safe use, courtesy and safety for other people and basic maintenance (if the user is not capable of the maintenance this information should be provided to the user's carer or similar). In my view the provision of this training and informationshould be an obligation of the retailer supplying the machine, and desirably retailers should offer regular half day courses for persons proposing to purchase a machine.

**Recommendation; that retailers be required to provide basic training to all persons purchasing a mobility scooter or motorised wheel chair (or provided to the intended user if that person is not the purchaser). This training should cover safe use, courtesy and safety for other people and basic maintenance (if the user is not capable of the maintenance this information should be provided to the users carer or similar).**

Consideration should be given to a process whereby the competence of users would be verified when they first begin to use a mobility scooter. However, unless there was also a process for assessing their continued competence then there would little value in testing at the start.