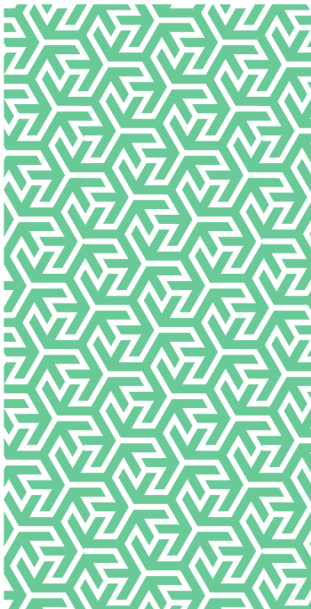


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Risk control Highway Code Changes



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Highway Code Changes

Following a government consultation, 2022 brought in significant new changes to the Highway Code.

Rule H1: Hierarchy of Road Users

Collisions involving larger vehicles, versus motorcyclists and cyclists, are disproportionality represented in collision statistics across the UK. In 2022, nine people were sadly killed in or by a London Bus. Headline TfL figures show that people who were walking, cycling and motorcycling accounted for 68% of all road fatalities. This is a reduction from 80% in 2021¹. Nationally, 91 cyclists were killed in GB, with 4,056 seriously injured and 11,546 slightly injured. The most common reason attributed was the 'driver or rider failed to look properly'². For another vulnerable group, namely Motorcycles, the news is more severe with 350 rider fatalities, 5,618 seriously injured and 10,975 slightly injured³.

As a result of a negative trend towards increasing injuries and fatalities, a hierarchy of road users was introduced. This follows a principle already used in some EU countries where the larger the vehicle, the greater responsibility the driver will have to protect those more vulnerable on the road. This applies to all road users from HGV's through to cyclists and horse riders to reduce the danger to pedestrians.

To further reduce these risks London has introduced a minimum standard for large vehicles over 12T entering the city known as 'Direct Vision Standard for HGV's' and it is possible that this will be rolled out across the UK at a later date.

Rule H2: Priority for pedestrians at junctions

Currently a driver should give way to a pedestrian already on a crossing or who has stepped off the kerb at a junction. The new changes mean that a driver, motorcyclist, cyclist and horse riders should now give way to a pedestrian who is waiting to cross a road into which, or from which, you are turning. This also applies when approaching an uncontrolled crossing where the pedestrian is waiting.

Rule H3: Priority for cyclists when cars are turning

To address the common reasons for Vulnerable Road User (VRU) fatalities discussed earlier drivers should not turn at a junction if it causes the VRU going straight ahead to stop or swerve. This applies whether the driver is turning on or out of a junction or changing direction and lane.

Improved Guidance

Other important changes aimed at protecting vulnerable road users include:

- A requirement to leave a minimum gap of at least 1.5m when overtaking a cyclist at speeds of under 30mph. This increases to 2m when travelling at mandated speeds over 30mph.
- A requirement to leave a minimum gap of at least 2m when overtaking a horse rider at no more than 10mph.
- Allow 2m distance when passing a pedestrian who is walking in the road.
- Wait behind the motorcyclist, cyclist, horse rider, horse drawn vehicle or pedestrian and not overtake if it is unsafe or not possible to meet these clearances.

Mandatory?

The wording in some cases states '*should*' rather than '*must*' which means that it is advisory to drivers. However, ignoring these could result in a driver being prosecuted for offences such as driving without due care, careless and dangerous driving depending on the circumstances.

Conclusion

In summary, many of these changes have been controversially received. However, these changes for most drivers should be common sense, what they are already practising and demonstrating professional driving or riding. Yet recent reports suggest that up to 7 million drivers are unaware of the changes so organisations must ensure their drivers are reminded of the importance whilst driving for work⁴.

In respect to negligence arguments following a collision a breach of the Highway Code may be relied on as tending to establish or negate any liability that is in question in proceedings. It provides guidance by which the standard of driving can be assessed but is also useful in assessing the actions of pedestrians and cyclists.

Usually a court will tend to conclude that where the provisions of the Highway Code have not been followed there has been a breach of the duty of care. The Highway Code is accepted good practice and represents the accumulation of many years experience since it was first published in the 1930s.

However, it is necessary to establish that any breach of the Highway Code was causative to the collision, it does not create a presumption of negligence. So in reality a breach of the Code is relevant but not determinative.

The Court of Appeal themselves commented on this very point in the case of *Goad v Butcher* (2011) where it was held that;

'A failure to observe the Code may be evidence of negligence, but whether it is will depend very much on the circumstances in which the act in question was committed and who is the claimant.'

In this case the defendant's breach of the Highway Code was deemed a red herring.

In reality, the Courts generally have been applying the changes to the Code in cases of Civil Liability with an emphasis placed on the duty of care owed to vulnerable road users. We should in practice see little difference to how the Highway Code will impact the outcome of claims where liability is in question and requires the court to establish culpability.

Helpful References

- 1 TfL Road Safety Statistics
<https://content.tfl.gov.uk/casualties-in-greater-london-2022.pdf>
- 2 Reported Road Casualties 2022 Pedal Cyclists
<https://www.gov.uk/government/statistics/reported-road-casualties-great-britain-pedal-cyclist-factsheet-2022>
- 3 Reported Road Casualties 2022 Motorcyclists
<https://www.gov.uk/government/statistics/reported-road-casualties-great-britain-motorcyclist-factsheet-2022/reported-road-casualties-great-britain-motorcyclist-factsheet-2022>
- 4 UK Driver understanding
<https://advancedmotoring.co.uk/2022-highway-code-changes-7-million-drivers-unaware-of-new-rules-for-cars-cyclists-and-hqvs/>
- 5 Government Statistics 2022
<https://www.gov.uk/government/statistics/reported-road-casualties-great-britain-pedal-cyclist-factsheet-2022/reported-road-casualties-in-great-britain-pedal-cycle-factsheet-2022#instructions-for-printing-and-saving>
- 6 ROSPA Road Safety Factsheet – Cyclists and Lorries 2021
<https://www.rospace.com/media/documents/road-safety/factsheets/cyclists-and-lorries-factsheet.pdf>
- 7 TfL – Direct Vision
<https://tfl.gov.uk/info-for/deliveries-in-london/delivering-safely/direct-vision-in-heavy-goods-vehicles>
- 8 TfL – Vision Zero
<https://content.tfl.gov.uk/vision-zero-action-plan.pdf>

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