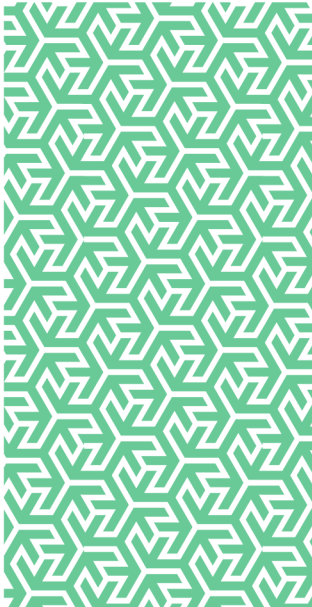


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Risk control Highway Code Changes



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Highway Code Changes

Following a government consultation, 2022 brings in some 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. Figures show that in 2019, 1.2% of cyclist casualties occurred with a Large Goods Vehicle (LGV). It resulted in 12% of cyclist deaths. Three quarters of these deaths were a result of:

- LGV turning left across the path of a cyclist
- LGV and cyclist turning left
- LGV overtaking a cyclist

In London, less than 5% of kilometres driven are in an LGV but in 2016 were involved in 50% of collisions resulting in a cyclist death.

As a result, a hierarchy of road users is being introduced. This will follow 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 will apply 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 will 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 will also apply 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 Users (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 that are 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 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 demonstrate professional driving or riding.

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.

References

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<https://tfl.gov.uk/info-for/deliveries-in-london/delivering-safely/direct-vision-in-heavy-goods-vehicles>
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<https://www.driving.co.uk/news/cyclists-and-horse-riders-among-those-applauding-the-highway-code-changes-for-2022-heres-what-you-need-to-know/>

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