



The following is the submission of the Kent Advanced Motorcyclists Group to The Department for Transport's consultation proposals on a review of the Highway Code

October 20th 2020

The Kent Advanced Motorcyclists Group (KAMG) is a road safety charity based in Kent. Its primary aim is to train motorcyclists to reach an Advanced Standard of riding as defined by the Institute of Advanced Motorists (IAM). KAMG was formed 40 years ago and was the first motorcycle-only road safety charity in the UK. Since its formation it has helped form similar groups throughout the country and itself has trained over 3000 motorcyclists to reach the IAM Advanced Rider level. Today KAMG has 359 members who between them cover more than two million motorcycle miles in an average year. The Group has between 75 and 100 riders undergoing training to an advanced level in an average year, and as a road safety organisation the KAMG obviously welcomes all initiatives that make road travel safer and more efficient.

The Submission

There are three main changes to *The Highway Code* that are being proposed by the Department for Transport and it is the first and the third of these – the introduction of a 'Hierarchy of Road Users', (Rule H1), and the giving of priority to cyclists over all other vehicular road users (Rule H3), that most concern the KAMG.

KAMG believes that it would be sensible for the riders of all inherently vulnerable, low-mass vehicles, such as bicycles, e.scooters and mobility vehicles, to do all that they can to protect themselves, to insure themselves against third party claims, and to make themselves very visible. At the moment they are not required to do this and the new proposals to amend The Highway Code do not change that position. We wonder why? Simply introducing different wording to various of the “should” rules of *The Highway Code* will not make the roads safer for these very vulnerable road users.

KAMG Recommendations

- It should be mandatory for all cyclists (and e.scooter riders if these scooters become legal on UK roads) to wear protective clothing and high-vis clothing that is manufactured to a specified, legally defined standard .
- Cyclists (and e.scooter riders if these scooters become legal on UK roads) should be identifiable when they are riding on the roads or cycle tracks and should therefore be registered and required to display a prominent 'registration number' in common with all other wheeled road users. The number to be displayed either on the machine or on the rider.
- As the roads become increasingly crowded it is an anachronism that cyclists are able to use the roads without having any insurance cover either for themselves or for third



parties. Third party insurance should be mandatory for cyclists as it is for all other wheeled road users.

- It should be the eventual aim of the Government to ensure that all riders of bicycles, electric-assist bicycles and e.scooters (if legal) have a knowledge of *The Highway Code* and are able to answer questions correctly on its rules and the appropriate traffic laws before they are able register their bicycles or e.scooters and use them on the road.

Justification of the KAMG's Recommendations

The existing *Highway Code*, in its very layout, already has an implicit hierarchy of road users – first there are Rules for Pedestrians, then Rules for Cyclists followed by Rules for riders and so on. It is a natural hierarchy, but there has never before been an imposed, legally defined hierarchy that clearly states that one particular road user, by virtue of the vehicle he/she is using, should at all times have priority over all other vehicular road users regardless of road conditions, road layout and other factors affecting traffic flow. The new rule H3 appears to give that priority to cyclists, which together with the introduction of a specific hierarchy of road users, constitutes a fundamental change to *The Highway Code*.

There has, of course, always been a natural hierarchy of road users that is recognised by drivers and motorcyclists and, importantly, it is a hierarchy that varies according to each set of circumstances that confronts road users, yet if these new proposals are implemented that natural hierarchy will cease to operate. The Department for Transport, in the belief that it will protect cyclists, has, it seems, given cyclists what amounts to absolute priority over all other vehicles at all times. Is that really the intention of these proposed changes?

Since it is obvious that of all vehicular road users it is cyclists that are the most exposed and who are in most danger simply through the act of riding on the roads, we find it perverse that The Department for Transport, in introducing these new rules to *The Highway Code* in order to protect vulnerable cyclists, is not at the same time making it mandatory for members of this most vulnerable group to do anything to protect themselves and to reduce their vulnerability by wearing protective, high-vis clothing. Nor is it being made mandatory for cyclists to use cycle lanes where they exist. Making it mandatory to wear protective clothing and visible clothing and also making the use of cycle lanes mandatory, are simple and obvious measures that would significantly reduce the vulnerability of cyclists and do much to increase their safety. Why then are such simple and obvious measures not being introduced?

The Department for Transport says that the aim of new Rule H1 is "... to ensure that those road users who can do the greatest harm have the greatest responsibility to reduce the danger or threat they may pose to other road users." **In other words the 'Hierarchy of Road Users' concept is based squarely on the (unproven) assertion that a vehicle's mass is inherently dangerous to other road users. However, it could equally well be argued that a vehicle's lack of mass makes it inherently dangerous because that makes it more difficult for it to be seen. The difference is that the danger in this case is not to other road users but to the low-mass road users themselves.** And that is the very reason for requiring cyclists to take more action to protect themselves. The KAMG agrees wholeheartedly that it is incumbent on all drivers/riders at all times to ensure that they do all that they can to reduce the danger they may pose to any other road user. That is also



already a central tenet of the existing *Highway Code*, but that is not the same as saying that the vehicles of the greatest mass are automatically the most 'dangerous'.

As rules H1 and H3 are presently couched they seem at once inequitable and dangerous. They are inequitable because they place all of the onus and responsibility for protecting cyclists on road users other than the cyclists themselves. There is no legal requirement for cyclists to do anything to protect themselves: they are the only vehicular road users not required to undergo any training to demonstrate that they have the skill and knowledge to ride on the road; they are not required to wear any protective clothing; and they are not required to wear any clothing that can easily be seen by other road users. Moreover, they ride in a bubble of anonymity and are the only road users who cannot be identified if they are involved in or cause a collision. Cyclists are not even required to use the cycle lanes that have been introduced specifically to keep other traffic separate from them. Rule H1 is dangerous because it could, and we think will, encourage cyclists – particularly those who are themselves not also drivers and who are thus unaware first-hand of the need to be very visible to drivers – to believe that by nominally having priority in virtually all circumstances they will automatically be 'safe'. And as a result of being encouraged to believe that the rules of *The Highway Code* make them 'safe', and allied to their anonymity, many will knowingly take risks that will put themselves and others in dangerous situations. Rule H1 may give them nominal priority, but it does not follow that it will make them 'safe', or indeed any safer than they are now. Despite the introduction of these new rules cyclists' safety depends, as it always has, on their being seen – easily seen. The new rules do nothing to change that. No rule can compel a driver to see something, but new rules could compel cyclists to take greater responsibility for their own safety by making themselves more easily seen. That would be far more helpful than the proposed new rules H1 and H3.

Therefore, if rules H1 and H3 are to be implemented KAMG believes that there should be some concomitant legal requirement for all cyclists to protect themselves by wearing helmets and high-vis clothing, and also for all bicycles to be properly lit to a consistent standard. The present variation in cycle lighting is another source of danger for cyclists because it causes confusion in the minds of drivers.

Furthermore cyclists should be identifiable so that they can be subject to sanctions like any other vehicular road user if they break the law. The fact that cyclists are presently unidentifiable and can thus ignore the rules of *The Highway Code* and break the traffic laws with impunity, is already a bone of contention with other road users, including pedestrians. It is a frequently heard complaint by drivers and pedestrians that cyclists can ignore *The Highway Code* rules and the traffic laws without any sanction. It might only be a minority that do this but the perception is that it is a very significant minority. To now place further legal responsibility on *other* vehicular road users without also making cyclists themselves subject to sanction is illogical and inequitable. That all vehicular road users should do all that they can to protect all other road users including cyclists is already a tenet of *The Highway Code* and like all other vehicular road users who are required by law to protect themselves as much as is possible, KAMG believes that cyclists should be required to do the same, and like all other road users cyclists should be identifiable and have, at least, third-party insurance.



It is also noted that these proposed changes to *The Highway Code* were first made by The Department for Transport before e.scooters were legally allowed on UK roads. They are now allowed on the roads in special circumstances and it seems likely that they will soon be allowed to be ridden legally everywhere. There is presently much debate about where it should be legal to ride an e.scooter and it has been widely suggested that they should be treated, in effect, as 'bicycles' and allowed to use cycle lanes where they exist and to ride on the ordinary highway where they don't. Are we to assume then that e.scooters will have the same blanket priority under rule H3? An e.scooter with rider is a physically smaller unit and is of even less mass than a cyclist, and so is even less visible, consequently its rider is even more vulnerable. Therefore, the KAMG strongly believes that if e.scooters do become legal their riders should certainly be required to wear protective and highly visible clothing and should be identifiable.

Summary

The KAMG believes that there are three basic reasons why cyclists are in more danger on the roads than other vehicular road users:

1. Their small physical size means that they are more difficult to see than other road users and this lack of visibility is hugely exacerbated in dark rainy conditions.
2. There is no legal requirement for cyclists to have demonstrated their riding competence, and to have read *The Highway Code*, before they are allowed to ride on the roads. Up to now they have been the only road users in this position, although e.scooter riders are now also likely to be included in the same group.
3. Cyclists' anonymity 'allows' them to flout the traffic laws and in doing so to put themselves and others in danger by being in positions where other road users are not expecting them to be. All road users should be readily identifiable and insured.

The new proposals made by The Department for Transport do nothing to address any of these problems.

Addendum

We note that the Department for Transport has said that it has, "...undertaken a De Minimis Assessment" of the changes that it is proposing. The decision to make a *de minimis* assessment is based, it says, on the belief that the proposals will have a net cost to business of about £5m. The KAMG finds it surprising that any assessment of fundamental changes to the one document that sets out the protocol for the safe navigation of the UK's roads by all users, should be assessed or measured by its (unmeasurable?) cost to business. Surely this is a safety issue not a cost issue? More surprising, however, is that from its use of the term *de minimis* The Department for Transport implies that the fundamental changes it proposes to *The Highway Code* are minor and relatively unimportant whereas the KAMG regards the proposed changes as major, and thinks that they will have dangerous consequences if implemented.