

Updates to the Highway Code and the impact on RTA litigation

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The Highway Code



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Highway Code 2022

Legislation underpinning Code remains unchanged. However, the key changes we will discuss are:

1. The hierarchy of road users
2. Pedestrian use of pavements
3. Pedestrian priority when crossing
4. Cyclists

1. The hierarchy of road users

Rule H1

“Everyone suffers when road collisions occur, whether they are physically injured or not. But those in charge of vehicles that can cause the greatest harm in the event of a collision bear the greatest responsibility to take care and reduce the danger they pose to others. This principle applies most strongly to drivers of large goods and passenger vehicles, vans/minibuses, cars/taxis and motorcycles.

Cyclists, horse riders and drivers of horse drawn vehicles likewise have a responsibility to reduce danger to pedestrians.

None of this detracts from the responsibility of ALL road users, including pedestrians, cyclists and horse riders, to have regard for their own and other road users' safety.”

2. Pavements

Rule H2

Only pedestrians may use the pavement. Pedestrians include wheelchair and mobility scooter users.

Pedestrians may use any part of the road and use cycle tracks as well as the pavement, unless there are signs prohibiting pedestrians. Cyclists should give way to pedestrians on shared use cycle tracks and to horse riders on bridleways.

New rules 62 and 63 for cyclists

When riding in places where sharing with pedestrians, horse riders or horse drawn vehicles is permitted, take care when passing pedestrians and horse riders, especially children, older adults or disabled people. Slow down when necessary and let them know you are there; for example, by ringing your bell (it is recommended that a bell is fitted to your bike), or by calling out politely.

3. Pedestrian priority

Rule H2

At a junction you should give way to pedestrians crossing or waiting to cross a road into which or from which you are turning.

Pedestrians have priority when on a zebra crossing, on a parallel crossing or at light controlled crossings when they have a green signal. You should give way to pedestrians waiting to cross a zebra crossing, and to pedestrians and cyclists waiting to cross a parallel crossing. Horse riders should also give way to pedestrians on a zebra crossing, and to pedestrians and cyclists on a parallel crossing.

See also Rules 8, 19, 170, 195 and 206

4. Cyclists

Rule H3

You should not cut across cyclists, horse riders or horse drawn vehicles going ahead when you are turning into or out of a junction or changing direction or lane, just as you would not turn across the path of another motor vehicle. This applies whether they are using a cycle lane, a cycle track, or riding ahead on the road and you should give way to them. Do not turn at a junction if to do so would cause the cyclist, horse rider or horse drawn vehicle going straight ahead to stop or swerve.

See also Rules 67, 76, 163, 212 and 215

Positioning: cyclists to ride in the centre of their lane on quiet roads, in slower-moving traffic and at the approach to junctions and keep 0.5m from the kerb edge on busy roads

Driver updates on safe passing distances

Highway Code and E-scooters

- Applies to E-Scooter users
- Remains a “grey area” despite increase in E-Scooter and pilot scheme
- Where do E-Scooters fit within the new hierarchy of road users?
- Regulation



Case Examples

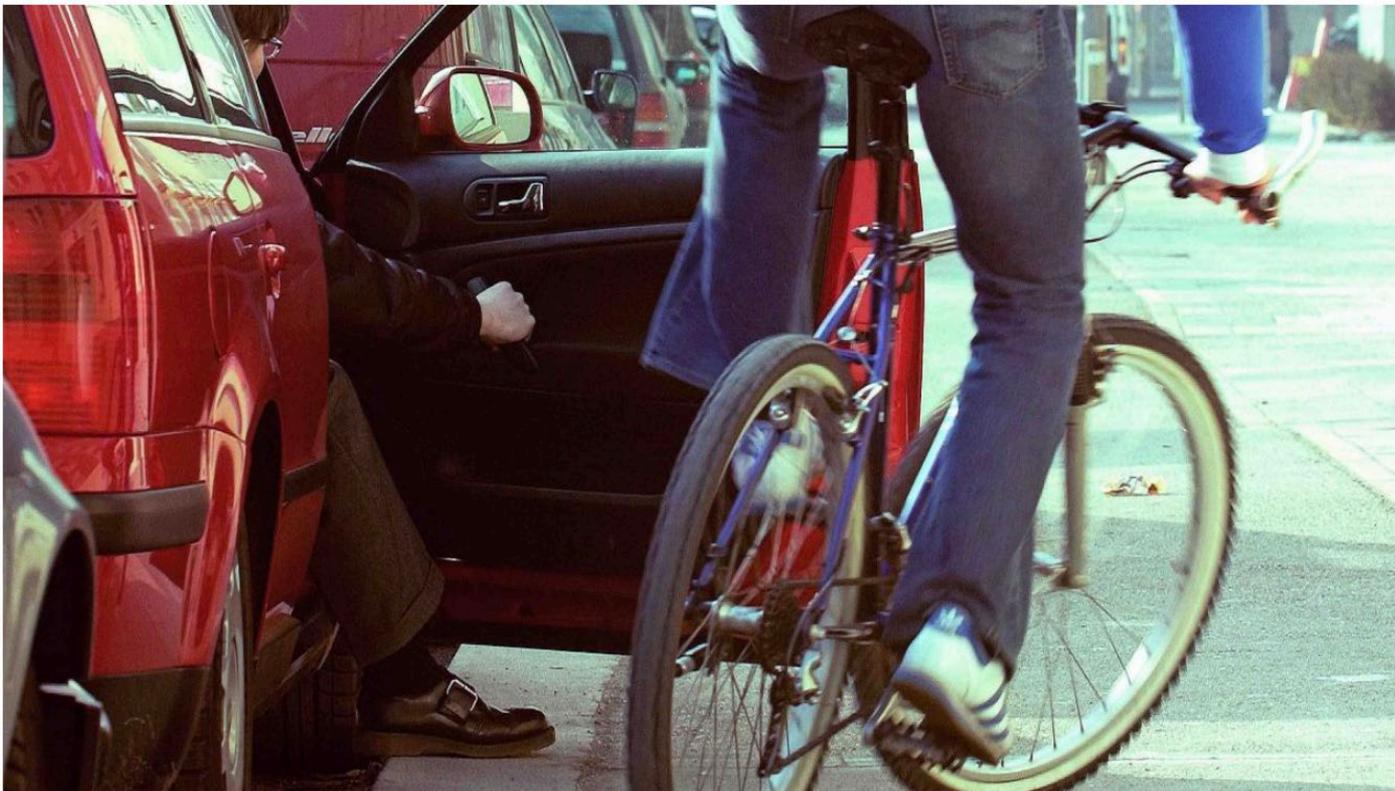
Example 1:



Example 1 continued

- Rule H2/ Rule 170 – important distinction “watch out for pedestrians” now to “give way”
- No previous precedence over vehicles
- Examples of cases with reductions for contributory negligence:
 - *Baker v Willoughby* [1970] AC 467
 - *Woolridge v George* (23 January 2017, unreported)
 - *Podesta v Akhtar & Aviva Insurance Limited* [2019] EWHC 1245 (QB)

Example 2:



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Example 2 continued

- Case of *John Burridge v Airwork Limited* [2004] EWCA Civ 459
- Rule 67 of the Highway Code now states:
 - *“...take care when passing parked vehicles, leaving enough room (a door’s width or 1 metre) to avoid being hit if a car door is opened, and watch out for pedestrians stepping into your path”*
- Rule 239 – the “Dutch” opening

Example 3:

Cyclist Mocks New Highway Code Rules By Using Phone To Take Selfies



Rebecca Shepherd



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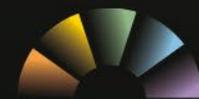
Example 3 continued

- Rule 72 addresses road positioning
- No explicit provisions prohibiting use of mobile phones when cycling (Rule 149)
- Rule 66 – avoid any actions that could reduce control of your cycle
- Rule 68 must not ride in a dangerous, careless or inconsiderate manner

Summary

- Additional precautions for all road users
- New avenues of potential liability for road users
e.g. Dutch opening, obligations at junctions
- Lack of familiarity with the new and updated rules
- Changes formalise common practice and courtesy

Any questions?



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