

The road ahead for motor safety

2021



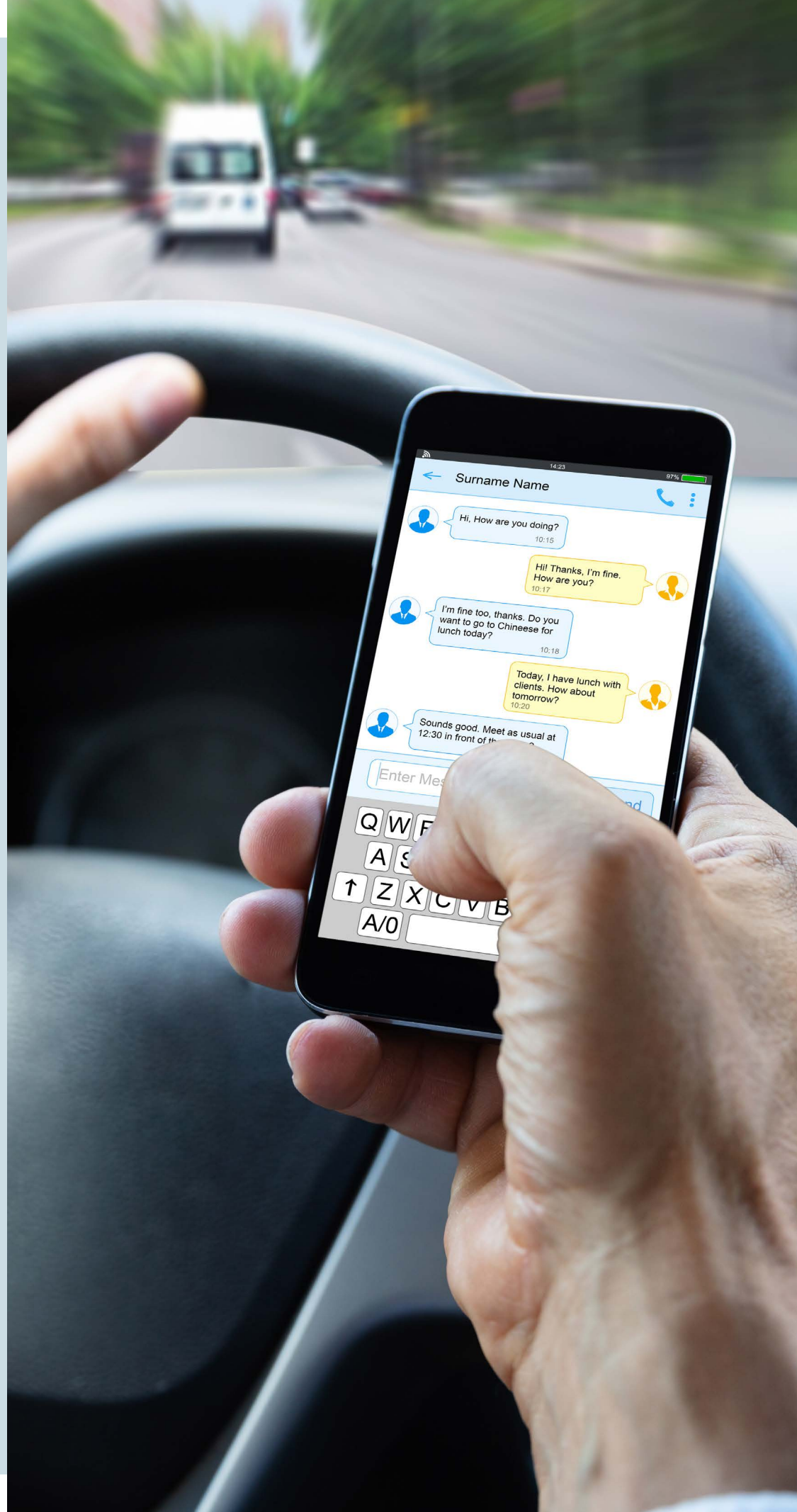
To say that 2020 has been a strange year for motorists and other road users would be an understatement.

With many off the road during the initial full COVID-19 pandemic lockdown and later in variable tiers, one would hope that there should at least, in theory, be a decrease in the fatality statistics for 2020 despite some taking advantage of empty roads to speed.

2018 fatality statistics of 1784 showed no real improvement from 2010. Figures released for 2019 show a reduction of 2% to 1,752 but the small decrease may be due to natural variation and the trend remains broadly flat.

At the start of 2020 we anticipated many developments for the year ahead but few progressed due to the pandemic. In 2021 we believe that progress will be made in some key areas.





Closing the loophole for driving whilst using a hand-held mobile device

In 2019 there were 637 casualties on UK roads involving a driver using a mobile phone – including 18 deaths and 135 serious injuries.

The existing basic penalties for using a hand-held device were increased three years ago to a £200 fixed penalty and six penalty points. Drivers who commit the offence within two years of passing their test lose their licence automatically as they are caught by the six point ceiling and must reapply and pay for their provisional licence again and retake both elements of the test.

It was hoped that the existing penalties would be extended to hands-free devices. Instead, after much delay, the Government announced a consultation on 17 October 2020, proposing:

- Broadening the offence of using a hand-held mobile phone while driving so that it captures standalone mode functions e.g. photographs as well as the existing interactive communication functions.

- Introduction of a new exemption to the using of a hand-held mobile phone while driving offence, to allow drivers to make contactless payments using a mobile phone at appropriate locations, for example at drive through food outlets

The main objective in revising the law is to separate out the definition of devices and uses and remove the reference to an “interactive communication function” as the trigger for the offence.

The consultation is open until 17 January 2021 and the changes, if implemented, will need to be reflected in The Highway Code.

The Highway Code

A consultation proposing an amendment to The Highway Code to introduce a hierarchy of road users, clarify pedestrian and cyclist priority and establish safer overtaking was launched on 28 July 2020 and closed on 27 October 2020.

The consultation sought views on proposed changes to improve safety for vulnerable road users, particularly the groups of cyclists, pedestrians and horse riders.

The main alterations to the code being proposed are:

- Introducing a hierarchy of road users which ensures that those road users who can do the greatest harm have the greatest responsibility to reduce the danger or threat they may pose to others.
- Clarifying existing rules on pedestrian priority on pavements, to advise that drivers and riders should give way to pedestrians crossing or waiting to cross the road.

- Providing guidance on cyclist priority at junctions to advise drivers to give priority to cyclists at junctions when travelling straight ahead.
- Establishing guidance on safe passing distances and speeds when overtaking cyclists and horse riders.

The Department for Transport is currently considering the responses. Whilst there is no indication of when any changes will be made, it is inevitable that if the Government is serious about their stated aims of “promoting safety on the road, whilst also supporting a healthy, sustainable and efficient transport system”, The Highway Code will have to be changed.





Increased use of 20mph Speed Limits in central London

As part of the mayor's Vision Zero ambition to eliminate death and serious injury on the Capital's transport network, an announcement was made in September 2019 that Transport for London (TfL) would introduce 20mph limits on all central London roads by May 2020. This was fast tracked so that on 2 March 2020 some 5.5 miles (8.9km) of 'Red Routes' in the congestion charge zone (CCZ) were reduced to 20 mph. 28 of the roads within the CCZ already had a 20 mph limit but the changes introduced 19 more.

TfL have completed a risk analysis of a further 140km to identify roads in inner and outer London where speeds should be lowered to reduce the risk of road users being killed and seriously injured, focusing on town centres and roads with the highest risk of a collision occurring. This might mean speeds will be lowered along some roads from 50mph to 40mph, or from 40mph to 30mph. They will be engaging with local communities and road users about how they introduce these limits across the city.

Smart Motorways

BBC Panorama back in January 2020 revealed that 38 people had died on smart motorways since 2015. The lack of hard shoulders means that cars that break down are often stuck in active lanes and risk being hit by other vehicles. The programme found that on one section of the M25 outside London, near misses had risen twentyfold.

In March 2020 the DfT published its “Stocktake”, having paused further development amid safety concerns, including a concession by Highways England whilst giving evidence to the Transport Select Committee, that Dynamic Hard Shoulder schemes were too confusing. Whilst confirming that in many ways they are safer than conventional motorways, the DfT launched an extended package of 18 measures to “raise the bar” on safety. Many related to emergency refuge areas which need to be closer together, better signed and where that is not possible, faster attendance by Highways England traffic officers.

Since then, further issues have come to light, including concerns about the ability of the technology in “automated” vehicles to recognise the Red ‘X’ smart motorway lane closures and there have been renewed calls for them to be scrapped by the families of those who have tragically died following accidents where they have been a factor.

News of seven new smart motorway roads was revealed in August 2020 as part of a £27billion investment across the country’s roads and Smart motorway upgrades will now be installed across busy stretches of roads including M62, M6, M56, the M40 and M42 interchange, A1 (M), M25 and the M3.

The imposition of a £100 fine and three penalty point endorsement for drivers who ignore the closed lane Red ‘X’ sign should be deterring some from poor driving. However, we hope that if the new smart motorway roads are built in compliance with the stocktake recommendations, the number of related serious accidents and fatalities will reduce.



Automated Vehicles

The Law Commission and the Scottish Law Commission opened a joint consultation on 18 December 2020 which closes on 18 March 2021. This third consultation follows-up on the previous two, which looked at Automate Vehicles (AVs) generally and how they should be regulated.

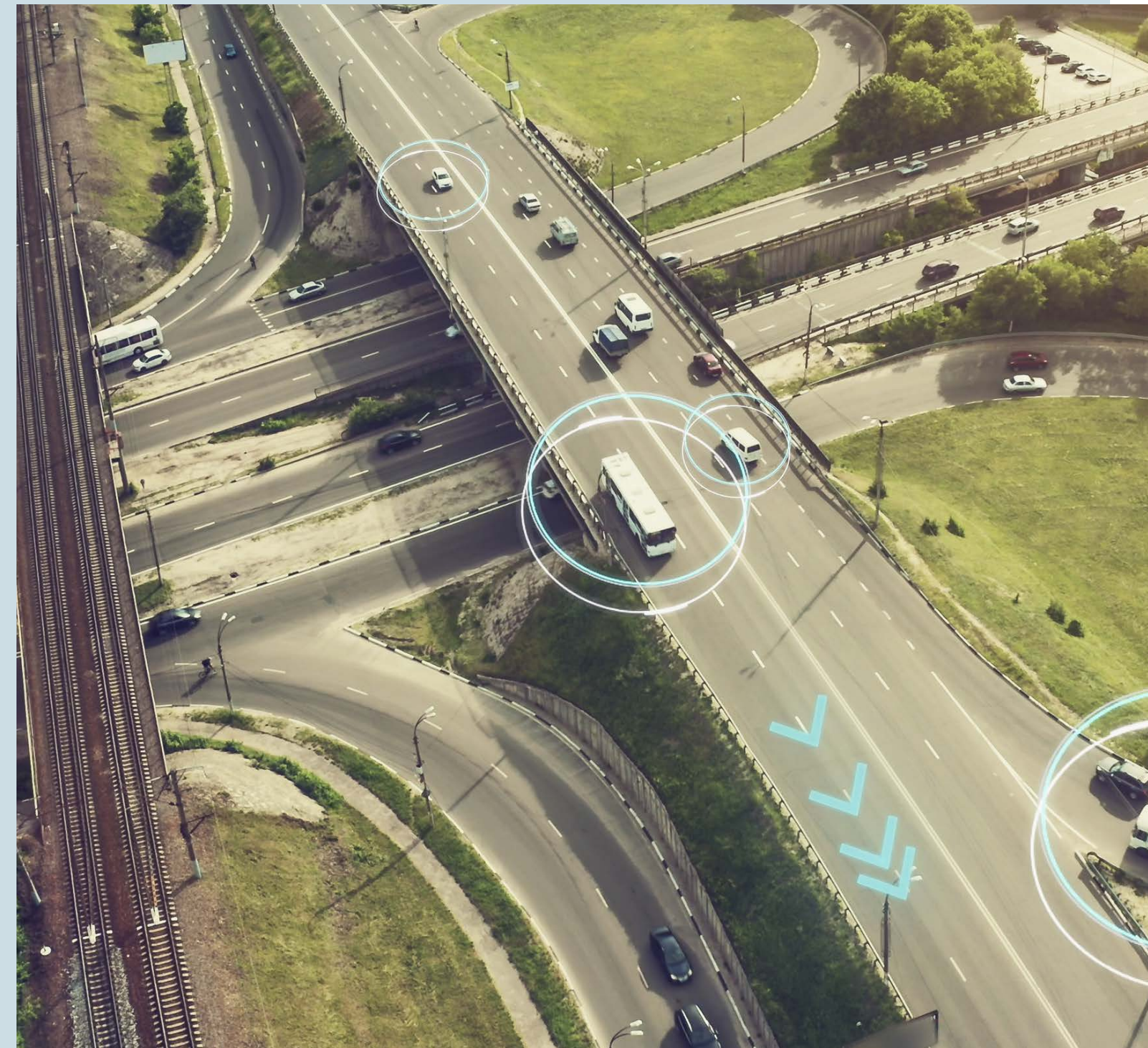
The paper returns to the key themes of those papers with a view to proposing a regulatory framework within which the first self-driving vehicles might operate and looks at the meaning of self-driving in law; how the level of human intervention should be set; and what should be the threshold of safety that an AV should be required to satisfy before being authorised for deployment on roads.

The regulation of the market is also considered, including how approval should be obtained by the manufacturers of automated driving systems and how self-driving vehicles will need to be monitored while they are in use, on an ongoing basis. The paper provisionally proposes an enhanced statutory scheme to assure the safety of AVs while they are in use, with additional statutory responsibilities and powers.

Five challenges are identified: regulating software updates; cybersecurity; updating maps; communicating information to users; and collecting data to compare automated and conventional driving.

The later sections of the paper look at how breaches of traffic rules should be dealt with; the concept of the user-in-charge: who would be to take over driving, either following a transition demand or because of a conscious choice; and how to regulate vehicles authorised to operate without a user-in-charge (NUICs). The paper provisionally proposes that every NUIC should have a licensed operator, with responsibilities to supervise, insure and maintain the vehicle, and to report accidents and near misses.

The paper adopts a general approach of moving away from blame and criminal offences, towards a learning culture, in which adverse events lead to regulatory interventions designed to improve systems for the future. However, it provisionally proposes new criminal offences where an automated driving system entity misleads regulators, with an aggravated offence where this leads to a death or serious injury.



Automated Vehicles vs Assisted Technology

On 27 October 2020 the Government's consultation on the Safe use of Automated Lane Keeping Systems on GB motorways closed. They are now analysing the responses.

Automated Lane Keeping System (ALKS) is essentially vehicle technology designed to control the movement of a vehicle for an extended period without driver command. The system is in primary control of the vehicle, and performs the driving task instead of the driver, and supposedly only at low speeds on motorways.

The Government were seeking views to understand if ALKS technology is compliant with the definition of automation under the Automated and Electric Vehicles Act 2018, which requires that the vehicle be capable of safely and lawfully driving itself without being controlled and without needing to be monitored, when in automated mode.

There are concerns amongst some, including Thatcham Research and the ABI, who made a joint submission to voice their concerns about the possibility of vehicles fitted with ALKS

being classified as automated, urging the Government to instead classify the technology as "Assisted Driving" which requires the driver to be fully engaged and ready to take over control at any moment.

Current Assisted Driving sensors can only read up to 120 metres ahead and although they are only intended to be used at low speeds on motorways, it gives a driver only four seconds to take back control in response to an incident, where studies suggest drivers need more than 15 seconds (or 0.3 miles at motorway speeds) to re-engage and react to a hazard.

If the vehicles are classified as "automated" then in theory, from early 2021, motorists could be watching television or playing a game in their car whilst believing that their ALKS is wholly effective and reliable. The potential consequences of ALKS failing to identify debris, a pedestrian or a Red "X" lane and alerting the driver to the need to take back control are sobering.



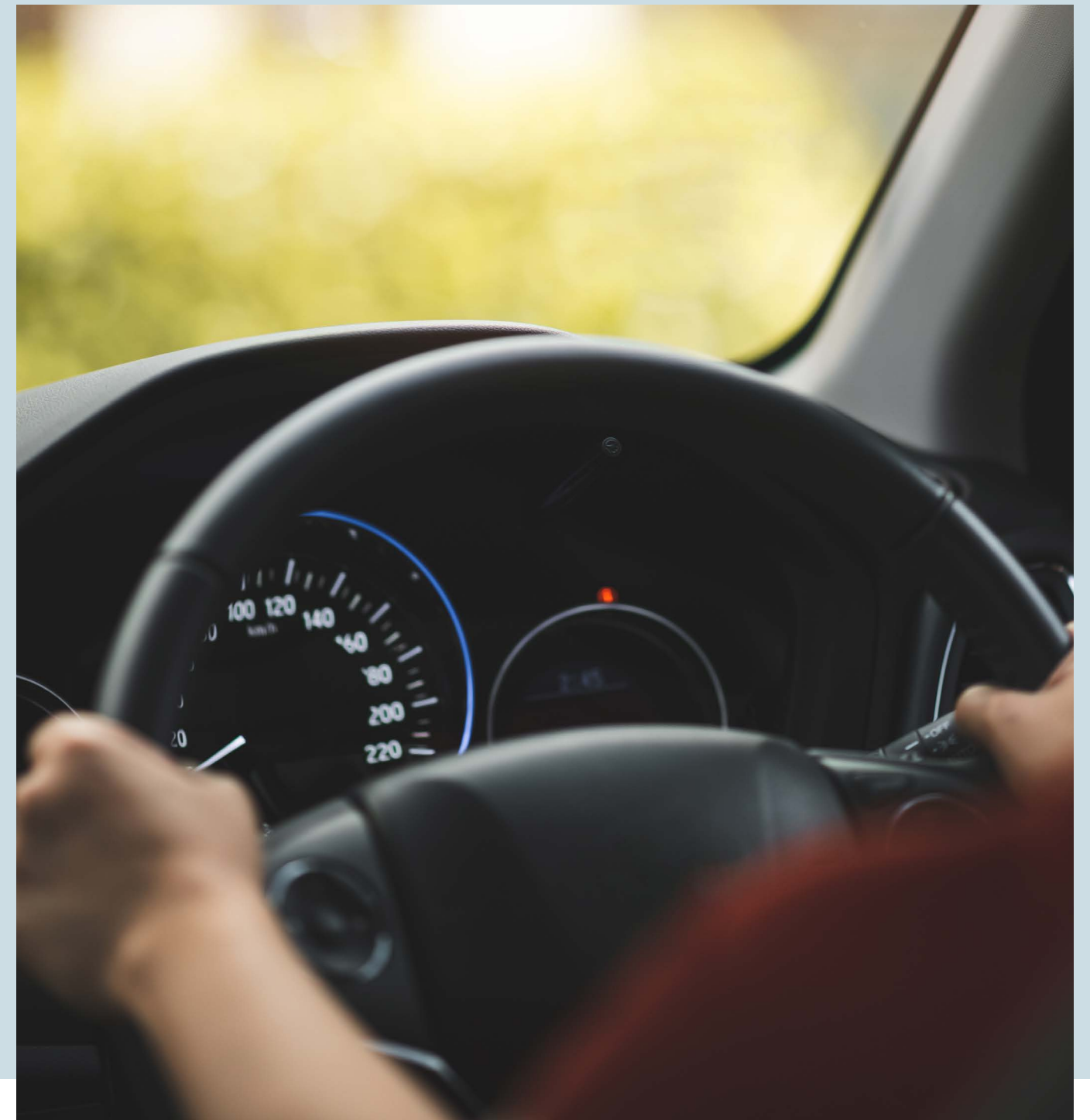
Young and Novice Drivers (Graduated Driving Licences)

UK Government data suggests those aged 17 – 24 are more than twice as likely to be involved in an accident as those aged 25 – 39. Although accounting for only 7% of the UK's driving licence holders, being involved in w20% of fatal and serious collisions, change cannot come quickly enough.

Northern Ireland has led the way in the UK by legislating for Graduated Driver Licensing for 17-23 year olds and we look forward to its implementation in what the UK Department for Transport has described as a pilot for the rest of the UK next year. Using 2012-16 data as their baseline, in 2018 the number of those killed or seriously injured as a result of collisions involving car drivers aged 17-23, regardless of responsibility, was 187, 14% less than the baseline average of 218. Those where the 17-23 year old was responsible reduced to 134, which was 9% less than the baseline average of 147.

Progress is now being made with an inquiry into the wider issue, led by the Transport Select Committee. The inquiry was launched on 16 March 2020. Oral evidence sessions were held on 2 September, 7 and 21 October 2020 and written evidence was published on 18 November 2020.

The committee are now completing their report and recommendations, which will cover the high collision rates among young and novice drivers, the Department for Transport's Road Safety Statement and Two-Year action plan, mobile phone use and drink driving among young drivers, Graduated Driver Licencing and telematics.



Road Closures at School Time

Cardiff City Council's pilot, to close streets around five schools to motorised traffic at peak times from January 2020 had been extended to 16 schools by September 2020. The scheme includes the imposition of a Fixed Penalty Notice charge of £70, which is reduced to £35 if paid within 21 days and to ensure that local residents are not adversely impacted, those living on the streets affected have been issued with permits to access their properties. Exemptions have been made for blue badge holders.

Other local authorities have followed suit not just for road safety reasons but also to make it safer and easier for those who want to walk or cycle and to make more space available for social distancing during the pandemic.



Drivers at work

In the last edition of this piece the focus of concern was the high number of those involved in an incident when driving for work as a result of a phone call from a colleague. Whilst that still remains a concern and it is still incumbent on employers who expect employees to use their own vehicle for business to ensure that they are doing so safely, and to follow the HSE Guidelines for employers "Driving at work", there is now an additional requirement to ensure employees are Covid-safe.

Whilst not specifically aimed at road safety, guidance was issued for people who "work in or from vehicles, including couriers, mobile workers, lorry drivers, on-site transit and work vehicles, field forces and similar" and this has been through numerous iterations since May 2020. Essentially it is an extension of current health and safety guidance and legislation for employers with practical examples of COVID-19 specific measures that can and should be taken to ensure employee and public safety.

Road Traffic Offences (Cycling) Bill

During the pandemic, the number of cyclists has increased and those who already had strong views about the “behaviour” of some cyclists has not diminished.

This Bill has been drafted to amend the Road Traffic Act 1988 and the Road Traffic Offenders Act 1988 to create criminal offences relating to dangerous, careless or inconsiderate cycling, in particular to apply to use of a pedal cycle, an electrically assisted pedal cycle, and an e-scooter. The first reading took place on 14 January 2020, but the second reading is yet to be scheduled.

There will be two schools of thought here – do they stop progress of the bill knowing it may provoke annoyance amongst the increasing number of pedal cyclists or do they make progress to try and implement the changes before e-scooters become mainstream, assuming the current trials are successful.

Pavement Parking Bill

This Bill is to amend the law relating to parking on verges and footways in England (outside of Greater London only) and in Wales. If passed into law it will mean that no vehicle can be parked on a verge or footway, but numerous exemptions have been provided for e.g. postal services, emergency services, road works, doctors on call etc.

This Bill has made no progress since the first reading took place on 20 January 2020 and there is currently no date scheduled for the second reading.

If enacted, the Road Traffic Act 1988 and Traffic Management Act 2004 will be amended to create an offence which will be treated as a traffic contravention for the purposes of Part 6 of the Traffic Management Act 2004. With a greater focus on walking and increase in cycling during the pandemic and the trials of e-scooters continuing at pace it seems likely that this will be progressed in 2021.

Child Safety (Cycle Helmets) Bill

The Bill requires children under 16 to wear a safety helmet when riding a bicycle on a public highway.

This Bill was reintroduced into the House of Commons on 10 February 2020, having failed to progress in the previous parliament, but the Second Reading has been moved twice and is now scheduled for 5 March 2021. With the increase in cycling during lockdown and wider review of mobility and shared spaces, it is hard to see why this would be delayed again.



E-scooter trials

There have been no official results from the current trials yet. Those running the trials are reporting in to the DfT every six weeks, but that information is not being shared yet. There are no official (or even unofficial) accident statistics available and not surprisingly, as they were illegal, the latest DfT statistics for 2019 accidents do not reference e-scooter in any type of accident scenario.

It is unlikely that e-scooters will be on the road in any numbers pre 2022. However, with the recent announcement that all fossil fuel emission vehicles are to be off the road by 2030, cheaper forms of e-mobility will have to be readily available soon - to enable people to adopt them and instil fundamental changes in attitude and behaviour sooner rather than later.



Speeding in lockdown

During the initial COVID-19 lockdown people were speeding on near-empty roads – one driver was caught doing 151mph on the M1 and one at 130mph on the M25, who suggested that he was “fleeing” the coronavirus.

Long-term trends in vehicle speed limit compliance have usually been stable. However, according to the DfT statistics for January to June 2020, COVID-19 did change the trends.

January to March 2020 saw similar levels of compliance with the car speed limit to previous years. However, in April to June 2020 the proportion of cars exceeding the speed limit was higher than the equivalent period for 2019 with 53% of cars exceeding the limit on motorways, 17% on national speed limit single carriageways and 63% on 30mph roads.

As restrictions eased later in the period April to June 2020, road traffic began to return to normal and speed limit exceedance also started to return to levels seen in long term trends. It will be interesting to see how the trend changes again during the tiered lockdowns and second full national lockdown and how that feeds into the accident statistics for the corresponding periods when they are published next autumn.

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