

**Mobility and Access Committee for
Scotland (MACS)**

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Pauline Morgan
Department for Transport
Great Minister House
33 Horseferry Road
London
SW1P 4DR

Our ref:
2018/18

Date:
11 October 2018

CWISnewoffences@dft.gov.uk

Dear Ms Morgan,

Cycling and walking investment strategy safety review

Please find below a response to the above consultation provided by the Mobility and Access Committee for Scotland (MACS).

If I can of any additional assistance, please do not hesitate to contact me.

Yours sincerely,

**Kind regards,
Aga Lysak**

MACS Secretary

Cycling and walking investment strategy safety review

The easiest way to respond is to use the [online response form](#). The online form also allows you to:

- save your progress, so you don't need to complete it all at once
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Introduction

Thank you for taking the time to read the consultation document and to respond to the questions. Your answers will help us to develop new policy on cycle and road safety. Confidentiality and data protection This consultation is carried out in the public interest to help us develop policy on cycle safety. As part of this consultation we request the following information: Your name and email address - in case we need to ask you follow-up questions regarding any of your responses. You don't have to give us this information. If you do, we will not share this information with anyone. If you do give us your contact information, you consent to DfT using it only for the purpose set out above. All your personal data will be deleted within 3 years of collection. You can withdraw your consent for us to hold your personal data at any time by emailing CWISnewoffences@dft.gov.uk. Find out more about the Department for Transport's data protection and privacy policy.

Personal details

Your name and email address. We will only use this if we need to contact you to ask about any of your responses.

Your name	Mobility and Access Committee for Scotland	
Your email	MACS@gov.scot	

Where do you live? Or where is your organisation based, if responding on behalf of an organisation?

	England	
X	Scotland	
	Wales	
	Other (please specify):	

Are you a: (multiple options)

	cyclist?
X	pedestrian?
X	motorist?

Are you responding: *

X	on behalf of an organisation? (Go to Organisation details)
	as an individual? (Go to The need for a change in the law)

Organisation details

Name of organization:

Mobility and Access Committee for Scotland

What type of organisation are you responding for? (multiple options)

	interest group (cycling)	
	interest group (walking)	
	interest group (motoring)	
	road safety organisation	
	local authority	
	health body	
	manufacturer / retailer	
	school / education	
	transport operator	
	police	
	academic or researcher	
X	Other (please specify):	Non Departmental Public Body (NDPB)

The need for a change in the law

Our consultation proposes that there should be an offence of causing death by dangerous cycling. Do you agree with this proposal?

MACS supports the proposal that an offence of causing death by dangerous cycling is introduced. This would allow for parity with the offence of causing death by dangerous driving. It is necessary and proportionate given the rising numbers of people cycling, and recent cases of pedestrians being injured or dying as a result of dangerous cycling.

X	Yes
	No
	Not sure

Do you think that there should be an offence of causing death by careless or inconsiderate cycling?

MACS supports the proposal to introduce an offence of **causing death by careless or inconsiderate cycling**.

X	Yes
	No
	Not sure

The consultation also proposes that there should be an offence of causing serious injury by dangerous cycling. Do you agree with this proposal?

MACS supports the proposal to introduce an offence of causing serious injury by dangerous cycling, however we would encourage DFT to clarify and confirm in legislation that cycling on pavements amounts to dangerous cycling, unless the pavement has been designed with provided space for cyclists that segregates them from pedestrians.

X	Yes
	No
	Not sure

The Ministry of Justice consulted on bringing forward a new offence of causing serious injury by careless driving. This consultation proposes that there should be an offence of causing serious injury by careless or inconsiderate cycling. Do you agree with this proposal?

X	Yes
	No
	Not sure

If there were a new offence of dangerous or careless cycling, do you think the sentences should match the sentences for dangerous or careless driving (current driving sentences shown in brackets)?

MACS believes there should be parity between the offences of dangerous and careless cycling and that of dangerous or careless driving, including maximum sentences available. Introducing equal offences for cycling and driving would convey the message that there is no hierarchy between drivers and cyclists, and that there are equal expectations with respect to taking care and responsibility of others when using the road.

	Yes	No	Not sure
causing death by dangerous cycling (currently 14 years for driving)	X		
causing death by careless cycling (currently 5 years for driving)	X		
causing serious injury by dangerous cycling (currently 5 years for driving)	X		

The report from the independent expert concluded that there is a gap in the law regarding dangerous or careless cycling. Do you feel that existing laws adequately cover circumstances where a person's cycling causes harm or injury others?

	Yes
X	No
	Not sure

Do you have any comments on any laws not covered in this consultation which could apply when trying to prosecute for this cycling behaviour?

No, MACS is not aware of any Scottish or UK legislation.

As far as MACS is aware legislation concerning the behaviour of cyclists on the highway is a reserved matter and not devolved to the Scottish Parliament.

Do you have any other comments that you wish to make in relation to how existing laws apply in Scotland?

MACS believes that existing laws and regulations that apply to drivers should also include or be extended to cyclists. For example cyclists should be required to obey speed limits and traffic signals in the same way drivers are.
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Road and public place

This consultation proposes that new offences should apply to public places as well as roads. Do you agree with this proposal?

X	Yes
	No
	Not sure

Please explain your answer.

MACS believes it essential that any legislation introduced applies to cyclists both on and off road. Many cyclists behave admirably, however there are still a considerable number that continue to cycle on pavements. People cycling on the pavement may cause older people and people with disabilities, in particular people with visual or hearing impairments, fear and may constitute one of the barriers to these groups from walking. If Scotland's National Walking Strategy is to be realized where everybody walks more often every day, then older and disabled people need to be confident that they can walk safely on

pavements without fear of collisions with cyclists.

The current offences of dangerous or careless cycling apply to a road. This consultation proposes that it should also extend to a public place. Do you agree with this proposal?

MACS is strongly supportive of legislation governing cyclists applying to both on and off road situations, as the law would apply to the behavior of cyclists using public squares, pavements, footpaths and cycleways where these are shared with pedestrians.

X	Yes
	No
	Not sure

Are there any other comments that you wish to make about where the laws should apply?

MACS has no further comments over and above those previously stated

Penalty points and disqualification

Drivers may be banned from driving for committing a current cycling offence. Minimum driving disqualification periods currently apply under the Road Traffic Offenders Act 1988. For drivers this is currently 2 years for causing death or serious injury, 1 year for causing death by careless driving. Do you think this should also apply to any of the new offences proposed in this consultation?

As stated above MACS believes that as far as possible there should be parity between rules and offences for drivers and those being introduced for cyclists.

X	Yes
	No
	Not sure

If not please explain why? If so, do you have any views on how long the minimum disqualification period should be?

The disqualification period should be the same length as that for drivers.

Dangerous and careless cycling

There is currently an offence of dangerous cycling (with a fine of up to £2,500) and for careless cycling (with a fine of up to £1,000). This consultation proposes that the penalties for these offences should remain unchanged. Do you agree with the proposal?

	Yes
X	No
	Not sure

If not, please explain why. Are there any other comments you wish to make on the level of penalty?

MACS believes the penalties are proportionate, however they ought to be rigorously enforced, and the amounts increased if they are less than those currently applied to dangerous or careless driving

Drink and drug driving and cycling

This consultation proposes that there should not be a new offence of causing death by careless cycling when under the influence of drink or drugs. Do you agree with the proposal?

X	Yes
	No
	Not sure

The current fine for riding a cycle when unfit to ride through drink or drugs is £1,000. Do you think we should consider increasing the fine?

X	Yes
	No
	Not sure

Do you think we should consider making it an offence to attempt to cycle (as well as actually cycling) when unfit to do so through drink or drugs?

X	Yes
	No
	Not sure

Are there any further comments you wish to make

MACS is keen that any legislation introduced facilitates increased use of cycling as a mode of transport. To that end we have included as an appendix a photograph of cycleways being planned for Edinburgh that offer an example of inclusive design, although the delineation between the pavement and the cycleway needs to be a minimum height of 60mm. Legislation should clearly convey that road regulations apply to cyclists as well as drivers, so for example it is not permissible for cyclists to not stop for pedestrian crossings. MACS recommends that DFT undertakes an Equality Impact Assessment to identify and mitigate any negative impacts that may arise from the proposals for disabled people.

How to respond

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If you would like further copies of this consultation document, it can be found at <https://www.gov.uk/dft#consultations> or you can contact the Department if you need alternative formats (Braille, audio CD, etc.).

Please send consultation responses to:

Pauline Morgan
Department for Transport
Great Minister House
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Appendix



Planned Pedestrian/Cycleways for City of Edinburgh

The delineation between the pavement and the cycleway must be a minimum of 60mm