



Questions and Answers on the Minimum Passing Distance Law proposals 2018 (A briefing note)



Bike Week 2009: one of the Galway Cycling Campaign's passing distance signs

Purpose of this document

The purpose of this document is to guide concerned citizens and law-makers in discussing the Minimum Passing Distance Law (MPDL) proposals currently being considered. It deals with common issues that have been raised in discussing the measures and sets them in the context of Irish and international law. It also deals with common themes that have been raised by opponents of the measures. The Galway Cycling Campaign supports the measure in principle.

What is the issue being addressed by the Minimum Passing Distance proposals?

In Ireland, walking and using bicycles on public roads is a right held by all. The issue is how to deal with acts of road violence that discourage people from engaging in active travel such as walking and cycling.

Oxford Dictionaries online gives the following definition of violence:

Violence: 1.1 *Law*: The unlawful exercise of physical force or intimidation by the exhibition of such force.

To go outside a car in Ireland is to find oneself routinely placed in fear for personal safety by acts by drivers that can be defined as violence, such as speeding and inappropriate speed.

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When speed by motorists is combined with close passing, the sense of intimidation or the perceived violence of the act is heightened. Many regular bicycle users have experienced so-called “punishment passes” by some drivers and are in no doubt that the intent is specifically to intimidate and frighten. Other motorists seem to be simply indifferent to the threats they create, and consider “failing to hit others” as the limit of what competent driving involves. There appears to be a view among some that if speeding in the presence of vulnerable roads users fails to result in actual injury or death, then it is a victimless crime. Nothing could be further from the truth.

In response to road danger, many people avoid walking or using their bicycles and make unnecessary trips by car even when it is not their preference. Out of fear, some have taken to cycling on roadside footpaths although this is illegal and creates additional hazards for the cyclists themselves. If done in a furious and inconsiderate manner, cycling on footpaths by adults or teenagers also creates fear in people who walk. This can also be treated as violence within our definition. That said, and without dismissing the fears generated, when crashes occur between walkers and people on bikes, the severity of outcomes is generally much lower than when crashes involve motor vehicles. Since 2008 it has been Galway Cycling Campaign policy to seek minimum passing legislation like that in other countries. The use of minimum distance laws is well established in other countries and is an essential component of the cycling-friendly culture that many report when visiting places like France or Germany.

At the moment there are two bills before the Oireachtas that deal with minimum passing distances by drivers. The bills follow a template established in other countries that specifies 1m as a minimum passing distance where the speed limit is 50km/h or lower, and a passing distance of 1.5m where higher speed limits apply. This document is intended to support cyclists who are approaching TDs on the issue. The two bills are as follows.

1. Road Traffic (Minimum Passing Distance of Cyclists) Bill 2017: A private members bill proposed by government ministers Ciarán Cannon, FG Minister of State for the Diaspora and International Development, and Regina Doherty, FG Minister for Employment Affairs and Social Protection. This bill received all-party approval at its First Stage reading in the Dáil.
2. The Road Traffic (Amendment Bill) 2017: A government bill to increase the penalties for drivers with alcohol levels of between 50mg and 80mg per 100ml of blood. An amendment to this bill by Fianna Fáil also provides for a Minimum Passing Distance of cyclists by drivers of motor vehicles.

Enforcement: I understand that some responses to this measure have raised the issue of its enforceability by police. Can I have more information on this?

Responses: There are two responses to this issue.

Enforcement 1. Traffic law is not simply a tool for policing.

The concept of traffic law that is difficult to police but establishes a fundamental principle is well established and widely understood in Ireland. The main example is Article 7 of the general traffic regulations (Statutory Instrument 182/1997) or the general obligation regarding speed.

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General Obligation Regarding Speed

7. A vehicle shall not be driven at a speed exceeding that which will enable its driver to bring it to a halt within the distance which the driver can see to be clear.

The general obligation regarding speed supersedes other regulations, such as speed limits. It is this regulation that makes it an offence for a driver to tailgate the vehicle in front. This is also the regulation that makes it an offence to drive around a blind bend on a country road at a speed where the vehicle could not be safely stopped for someone walking on the road or for another vehicle that is stopped. It also creates the legal requirement for motorists to slow down if their vision is impeded. Article 7 is difficult to police, and in general practice the Garda Síochána do not attempt to measure the distances that drivers leave to the car in front. However, once a crash occurs, Article 7 provides a well-understood test to be applied by the courts. Indeed, when one driver rear-ends another, it is generally understood that by that fact some negligence is assumed on the following driver's part. Therefore it is spurious to argue that enforceability represents an obstacle to improving road traffic legislation for the protection of vulnerable road users.

For vulnerable road users, Article 7 is an important protection that we need to defend. Many cyclists and walking activists have noted with concern the pushing of so-called high-visibility clothing by some state actors. The value of such clothing is a matter of dispute. The promotion of such clothing in all circumstances is perceived as victim blaming and an attempt by some to excuse and regularise dangerous driving. With regard to cyclists it is seen as a smokescreen to distract from the failure of the Garda Síochána to carry out their allocated functions and enforce the legal requirement for bicycles to have lights after dark. Many cyclists who already use high-visibility clothing find that it has no discernible effect on the behaviour of some motorists. As we deal with below, the Irish state has conspicuously failed to properly regulate the behaviour of drivers at places where people might be walking or children playing. There is particular reason to be concerned that the intent by some pushing high-visibility clothing is to excuse driving in violation of the general obligation regarding speed. If there are drivers who choose to drive around blind bends at speeds where they could not safely stop, then it seems disingenuous to put the blame on pedestrians or cyclists for wearing the "wrong" clothes. If local authorities are marking country lanes with 80km/h speed limits when the highest safe speed is 30km/h, it is disingenuous to blame walkers or cyclists for wearing the "wrong" clothes.

For a wider discussion of high-visibility clothing, see the Road Danger Reduction Forum here: <https://rdrf.org.uk/2013/10/31/hi-viz-for-cyclists-and-pedestrians-sensible-precaution-or-victim-blaming/>

Enforcement 2. Minimum passing distance laws are routinely enforced in other countries

Although some have argued a minimum passing distance law to be unenforceable, it is a fact that in other jurisdictions police do actively monitor for, and prosecute, close passing of cyclists by motorists. Typically, an undercover member of the police simply cycles a bike equipped with cameras or other proximity-detection equipment. The equipment is not hard to design and is within the scope of a Leaving Certificate physics project. A nearby example of successful and proactive policing of close overtaking can be found from the West Midlands police in the UK. "Operation close pass" simply involved undercover police using cameras and has been

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associated with a 20% reduction in collisions in the first year. Their own report on the initiative can be accessed here: <https://west-midlands.police.uk/news/3951/serious-cycle-smashes-down-fifth-close-pass-first-year>. The West Midlands initiative has been hailed as a game-changer for cycling safety in England. Some police forces also accept private dashcam video or private videos taken by cyclists themselves and use this as evidence to take action against dangerous drivers. In Wales, four police forces have combined to set up Operation Snap <https://gosafesnap.wales/> – a website where concerned members of the public can upload videos and photographs of traffic offences.

Question: The current MPDL bill is written with regard to speed limits instead of actual speed. In Ireland, the general absence of effective speed enforcement by the state makes speed limits a meaningless concept. This is particularly a problem in urban areas.

Response: This is a reasonable concern. It is undeniable that the apparent absence of an effective police system is one of the key obstacles to promoting walking and cycling in Ireland. But we cannot allow the failures of state institutions to dictate the content of the law. To do that is to allow the forces of anarchy an effective veto over national progress. Outside of towns, many cyclists would not have a problem with being given slightly less overtaking clearance by drivers who have first slowed down significantly before trying to pass. Alternatively, on urban roads in Galway the 50km/h limit is grossly and routinely violated. On “National Slow Down Day” in 2013, community speed surveys were conducted on four roads in Galway City by Cosain (Community Road Safety Action and Information Network). More than 60 per cent of the 400 vehicles observed were speeding at 60km/h or more in a 50km/h zone. The highest speeds recorded were 90km/h at Knocknacarra Road between 6.50am and 7.35am, 78km/h at Siobhán McKenna Road between 12.15pm and 1.20pm, 94km/h at Kingston Road between 2.05pm and 2.55pm, and 93km/h at Bóthar Stiofáin between 5.25pm and 6pm and between 8pm and 9pm.ⁱ Being passed at 1m by someone doing 80 to 90km/h in a 50km/h zone would not be, or feel, safe. But the challenge is to come up with a law that can be easily tested by the courts. Since most cyclists do not carry speed-detection equipment, another indicator of likely speeds is the speed limit. In any case, the wording still enshrines in law the concept that, for overtaking vulnerable users, it is the combination of proximity and speed that is crucial, and not simply “failing to hit” the person being passed. As we deal with below, the legal code in some countries does require motorists to modify their speed in the presence of vulnerable road users.

(We deal with the issue of policing in more detail in our 2016 Observations on the Draft Code of Ethics for the Garda Síochána:

http://www.galwaycycling.org/wp-content/uploads/2016/11/2016_09_23_GCC_Cosain_observation_Garda_CoE.pdf)

Question: The bill is written with regard to speed limits. I know of various country lanes with an 80km/h limit where achieving a full 1.5m passing clearance would be difficult.

Response: This is an obvious problem, but it is not a problem for the MPDL bill. The issue here is the default designation of 80km/h limits on roads where this is not a suitable speed limit. In Ireland, country tracks with grass growing up the middle have been given an 80km/h speed limit. The solution is for local authorities to apply realistic speed limits on minor rural roads. See also above regarding the general obligation on speed.

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Question: What happens with regard to solid white centre lines or other lane markings such as central hatching? I have had Irish motorists try to squeeze between me and lane markings at speed.

Response: This is an obvious problem, but it is not a problem for the MPDL bill. The issue here is the failure of successive ministers for transport and their officials to address hostile road design practices. The classic example is where Irish roads engineers use central hatching that removes road space from cyclists and pushes some cyclists up onto footpaths. For a Galway example, see here:

<http://www.galwaycycling.org/city-council-removes-road-capacity-from-cyclists-on-tuam-road/>

French traffic law provides that motorists may cross solid white lines to pass cyclists in urban areas. We understand that German traffic law provides that slow vehicles may still be overtaken in situations where a wider prohibition on overtaking applies. This is something that should have been fixed in Ireland years ago. See also below regarding the behaviour of drivers in the presence of people on foot. Ideally, if the MPDL law is passed, then the current Minister for Transport would hopefully choose to update the regulations and remove any potential confusion. However, if the MPDL law is passed, it will be primary legislation (an “Act”) whereas the regulations will be statutory instruments. So theoretically the content of the Act might be deemed to have precedence over any conflicting instructions in the regulations.

Question: What about pinch points? Irish roads engineers have sterilised some roads as places to cycle by making people on bikes the “meat in the sandwich” between concrete kerbs and moving cars and trucks. Will the MPDL help these situations?

Response: Before we discuss road narrowings, it is important to note that a fundamental cause of the problem is the failure of the Garda Síochána to uphold public safety and provide an effective speed enforcement service at rural locations. If the Garda Síochána were fulfilling their allocated role, there would be no need for village gateway schemes. The Galway Cycling Campaign previously worked with local TDs to seek the expansion of the Road Traffic Act to allow Local Authorities to operate their own speed cameras. This was rejected by the Department of Transport, Tourism and Sport.



Road narrowings and pinch points using central islands or kerb buildouts are a source of concern for many cyclists, especially on roads with fast or heavy traffic. At these places, some motorists will treat cyclists as an obstacle to be overtaken at all costs. Despite this, and against good practice, the NRA/TII and various local authorities have created hostile and demonstrably dangerous pinch points under a program of town and village “gateway schemes”. These are now found on the outskirts of various towns and villages on national routes. They are also found within towns – in Galway the Headford Road is a prominent example.

A Transport Research Laboratory (TRL) review of traffic calming schemes using narrowings remarks: “Some illustrations show that the cyclist is effectively the principal speed-reducing feature”.ⁱⁱⁱ In a subsequent TRL study, respondents specifically stated that cyclists were being used as tools in such “traffic calming” schemes.ⁱⁱⁱ TRL 621 specifically refers to cyclists being wounded after being clipped by wing mirrors. TRL 621 reports the view that pinch points had

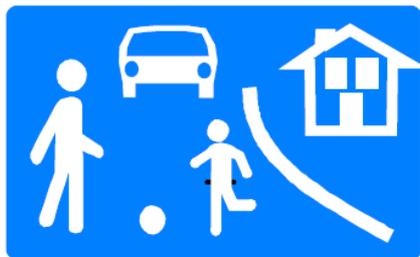
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made cycling on some routes almost impossible unless people take to cycling on footpaths. Irish roads engineers are effectively using unprotected human beings on bicycles as traffic-calming features on roads with heavy traffic. This is obviously unacceptable.

The use of these features was avoidable. In Germany and Spain, automatic red lights and enforcement cameras (traffic lights that go red if approaching traffic exceeds stated speed limit) are used at equivalent village gateway locations. This approach rewards rather than imposes speed restraint. It has been argued that the MPDL will help to address the issue of engineered pinch points. This remains to be seen. Many pinch points are in 50km/h zones, and depending on available width, some drivers might feel invited to “have a go” at getting past with 1m to spare. Even where drivers wait before passing, some will still tailgate people on bikes in an aggressive and threatening manner. We have long seen a need for a specific regulation to ban drivers from overtaking cyclists at such locations. Ultimately the use of such pinch points should have no place in a civilised country and they should be removed or modified.

Question: The Department of Transport, Tourism and Sport (DTTaS) seem to be opposed to this measure. Isn't this something that we should take into account?

Response: When it comes to the safety of vulnerable road users, the DTTaS often seems to be part of the problem rather than part of the solution. The DTTaS's claims on the Minimum Passing Distance bill have been comprehensively refuted by other contributors. But it might be easier to illustrate the issue with a review of DTTaS recent activity in other areas. This brings us to the controversial and deeply flawed “slow zone” signs announced in March 2015. The signs are recommended by the DTTaS to Irish local authorities for certain types of road and a speed limit of 30kmh. The sign in question shows pictograms of persons playing with a ball, a car and a house. This sign is clearly based on signs such as sign E17a for residential areas as defined in the Vienna Convention on Road Signs and Signals – a multilateral treaty of the United Nations. The signs convention complements the Vienna Convention on Road Traffic, which standardises international traffic laws.



E, 17^a

Figures: The sign on the left is the international sign for residential area with maximum speeds of 20kmh and legal priority to pedestrians (Vienna Convention on Road Signs and Signals). The sign on the right is the one announced by the Irish Minister for Transport on 19 March 2015.

In 1993 the convention on traffic was amended to include a definition of a residential area as denoted by sign E17a. This definition establishes in international law a legal concept of a pedestrian priority zone where pedestrians have legal priority over cars, where children are legally protected in using the entire road surface as a play area, and a maximum speed limit of 20kmh applies.

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The full definition in the Vienna conventions is as follows.

"ARTICLE 27 bis

Special rules applicable to residential areas signposted as such

In residential areas, signposted as such:

- (a) Pedestrians may make use of the road over its entire width. Games are allowed;
- (b) Drivers shall proceed at very low speed , as specified by national legislation and which in no case should exceed 20 km (12 miles) per hour;
- (c) Drivers shall not put pedestrians at risk nor behave in an obstructive manner. If necessary they shall stop;
- (d) Pedestrians shall not impede vehicular traffic unnecessarily;
- (e) Parking is forbidden except where allowed by parking signs;
- (f) At intersections, road users emerging from a residential area shall give way to other road users, except when otherwise provided in domestic legislation.

This is the definition that is commonly understood for this sign under the traffic regulations of other European countries. Some countries go further and define speed limits lower than the maximum allowable limit of 20km/h. In Germany, a speed limit of *Schrittgeschwindigkeit* or "walking speed" applies. Germany has recognised the concept of the *Spielstrasse* or play street since the 1950s. Austrian law is similar and has been in place since 1983. Vienna has 32km of *Wohnstrassen* or residential streets covered by this sign. In the Netherlands a speed limit of walking speed applies under Article 45 of their traffic regulations. The Netherlands has had the concept since the 1970s and has thousands of these zones. In Belgium, Flanders adopted this sign with the same meaning as in Dutch traffic law in 1978. Sweden adopted the idea in 1994. We understand that Poland incorporated the Vienna convention definition, with a limit of 20kmh, into its traffic law in 2003. Slovakia has adopted the same concept as "obytnej zone" under Article 59 of its traffic regulations. France and Switzerland have adopted the idea as "zones de rencontre" but using a different sign.

Ireland is an open society with free travel to and from other European countries. Ireland has a duty to these citizens, who include children, not to use commonly understood road signs in a manner that confuses and is contradictory to their original meaning. The Irish sign clearly does not confer any specific legal protection on pedestrians, particularly children. The Irish sign also flouts the common understanding that a maximum limit of 20kmh should apply. It might be argued that the use of yellow rather than blue implies a different legal meaning to the Irish sign. But in our view, children from other cultural backgrounds or their parents should not be required to make obscure legal interpretations when faced with commonly understood road signs. It

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should be clear to all when and where children have the protection of the state or not. The conduct of the DTTaS with regard to this slow-zone signage raises questions about the attitude of the department to the safety of vulnerable road users, particularly children. In our view, the recent record of the DTTaS undermines its credibility as a contributor on matters of traffic law and vulnerable road users. When the same DTTaS is critical or dismissive of other attempts to improve road safety for vulnerable users, such as the Minimum Passing Distance Law, then these objections should be considered in this context.

Question: People who walk are also endangered by those drivers who choose to drive close to them at speed. Shouldn't pedestrians have the same protections that are being proposed for cyclists?

Response: Yes, of course pedestrians should have similar protections. Irish traffic law is essentially stuck in the Dark Ages when compared with other Northern European countries. This is not a problem with the MPDL bill but illustrates an ongoing problem with the Department of Tourism, Transport and Sport. Belgian Traffic regulations specify minimum clearance or maximum speeds for motorists passing pedestrians. Under Article 40.7: Drivers must leave 1 metre clearance when passing pedestrians. If they cannot leave 1 metre clearance, they must proceed at walking speed or stop. Under Article 40.6: Drivers must leave 1 metre clearance from roadside obstacles that pedestrians can only pass on the carriageway. If this rule cannot be obeyed and if there is a pedestrian on the carriageway next to the obstacle, then the driver may only pass at walking speed. In other words, drivers are allowed to pass pedestrians with less than 1 metre clearance if they do so at walking speed. Article R414-4 of the French Code de la Route, which provides for minimum passing distances when overtaking cyclists, also applies the same rule to passing people on foot.

Unlike Ireland, other countries have other specified duties of care towards vulnerable road users. In Germany, the traffic regulations provide that drivers of vehicles when encountering children, disabled or elderly persons, shall conduct themselves so as to ensure these road users' safety, specifically by slowing down and being ready to brake. The Belgian traffic regulations stipulate that motorists must redouble their prudence in the presence of children, the aged or infirm. They also restate this principle with regard to child cyclists and elderly people using bicycles. Article R412-6 of the French Code de la Route includes a stated duty of care by drivers towards vulnerable road users.



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A tale of two safety campaigns: In the top poster, Belgian children wear their normal clothes to stand on a pedestrian crossing asserting their right to a school travel environment where adult motorists respect their needs.^{iv} The bottom picture from the RSA shows how Irish children are expected to dress. Irish society, as represented by the gentleman in the centre, chooses not to give these children the same protections as their counterparts elsewhere in Northern Europe. Instead, Irish state actors focus on making small children, even those too young to read, responsible for avoidable risks created by adult town planners, adult roads engineers and adults in cars.

In the Irish context, the state has conspicuously failed to provide well-understood legal protections for children and other vulnerable road users. This reinforces the view that those state actors who call for measures like the wearing of helmets and high-visibility clothing are essentially seeking to excuse state inaction and to place the blame for road danger on the victims of failed state institutions. At the start of the millennium, Ireland had the highest child pedestrian death rate in Western Europe.^v Those families who have access to cars “solved” the issue by driving their children for many trips. At the moment we need to accept that although there are numerous improvements needed to Irish traffic law, the necessary leadership does not appear to be available from the current minister or his officials. The Minimum Passing Distance Bill is a small step in the right direction and has the effect of enshrining a duty of care by motorists towards vulnerable road users in primary legislation. From this base we can then work to bring Irish law into line with international law and best practice.

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Question: One of the people who is backing this measure is the Fianna Fáil Transport spokesman Robert Troy. I have heard worrying things about Mr. Troy – should I be concerned?

Response: Yes, you are right to have concerns about Mr. Troy's intervention in this matter. Mr. Troy is no friend of walking or cycling and is on public record as calling for normal walking and normal cycling to be criminalised. Mr. Troy is not directly involved in the private members bill proposed by Ciaran Cannon TD and Regina Doherty TD. Instead Mr. Troy has sought to attach an MPDL provision to another bill, the Road Traffic (Amendment Bill) 2017. This is a government bill to increase the penalties for drivers with alcohol levels of between 50mg and 80mg per 100ml of blood. This is problematic, since Mr. Troy is on record as being an opponent of the provisions of the primary bill. This has inevitably led to speculation that the intent of the MPDL amendment is not to improve the safety of cycling but is a tactical ruse to help defeat an intoxicated driving bill that Mr. Troy and his colleagues in Fianna Fáil oppose.



A picture from Mr. Robert Troy's Facebook page showing him with Mr. Michael O'Leary, a prominent businessman in the car-hire trade. There is an apparent alignment between Mr. O'Leary's commercial interests and Robert Troy's call for normal walking and cycling to be criminalised.

For people who walk, Mr. Troy has called for compulsory high-visibility clothing. On cycling, Mr. Troy is on record as calling for normal cycling to be criminalised and for people who use bicycles to be compelled to wear so-called "cycling helmets" made of expanded polystyrene foam. The promotion of these devices is highly controversial, and the suggestion of compulsion is strenuously opposed by cycling interests such as the European Cyclists Federation and Irish cycle campaign groups. The main examples of helmet laws are Australia and New Zealand, and outside of these countries those laws are viewed as public health disasters. In both countries the main effect of the laws was to reduce cycling participation. In New South Wales there were found to be 43% fewer child cyclists two years after the law. In Sydney, cycling participation by schoolgirls reportedly dropped by 90%. Moreover, cycling participation fell without an equivalent reduction in death or injury. This suggests that helmet laws actually make cycling more dangerous.

In 2004, the then chairman Mr. Eddie Shaw and then Chief Executive Mr. Pat Costello of the National Safety Council organised a media event where they called for the imposition of cycle helmet laws such as those seen in Australia, particularly for children. No representatives of Irish cycling bodies were consulted on this proposal, and no cycling representatives were

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invited to the media event. The immediate effect was to provoke a storm of protest from cyclists groups. Reaction from cycling interests was swift and furious, and a mass cycle was held in Dublin followed by a protest outside the Department of Transport to call on the Minister to dismiss those involved from their posts with the NSC. A joint letter by a coalition of cycling interests was sent to the minister disputing the claims made. In particular, exception was taken to the assertion that such polystyrene helmets had "lifesaving" properties and might be beneficial in impacts with moving motor vehicles. Cycling helmets are neither designed, tested nor expected to provide protection in high-speed impacts with moving cars. Claims for such "lifesaving" benefit were treated as showing a gross insensitivity to families who had lost loved ones in crashes with motor vehicles.

Readers who need more background detail are recommended to go to <http://www.cyclehelmets.com> and <http://www.cyclehelmets.org>



Caption: Fianna Fáil Transport spokesman Robert Troy has called for normal cycling like this to be made illegal. He has also called for it to be made illegal to walk in normal clothes.

Mr. Troy has been keen to associate himself publicly with Mr. Michael O'Leary, a Mullingar businessman. Mr. O'Leary is a prominent seller or reseller of car-hire services. Mr. O'Leary's company operates a website "car-hire.ryanair.com" that offers access to car rental services on behalf of 1600 car hire agents at 43,500 airport and city locations covering 190 countries. Mr.

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O'Leary is also noted for his open hostility to active travel such as cycling. On one occasion, in an address as guest speaker at an event organised by Mr. Troy, Mr. O'Leary called for people who use bicycles to be murdered.^{vi} There is an apparent alignment between Mr. O'Leary's commercial interests as a seller of car hire services and Robert Troy's calls for normal walking and cycling to be discouraged to the point of being criminalised. It is an inescapable fact that the motor trade and associated activities would expect to profit from measures that are established to discourage alternative forms of transport. Laws requiring unusual clothing such as polystyrene cycle helmets are established to discourage cycling at all ages.

Given Mr. Troy's previous hostility to normal walking and cycling, there is also concern that Mr. Troy's passing distance proposal is a Trojan horse for an attack on normal walking and cycling by proposing laws to make it illegal to walk or cycle in normal clothes. If an attempt is made to bring in compulsory helmets or high-visibility clothing, then this must be resisted forcefully. If the choice is between a minimum passing distance law or losing the right to walk or cycle in normal clothes, then the passing distance law must be rejected.

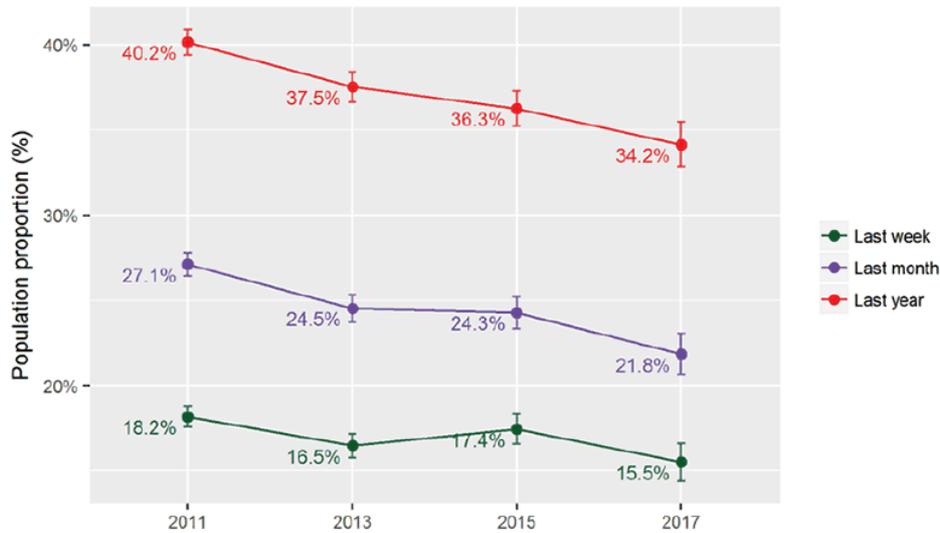
Question: I have been hearing a lot about Australia in some of the debate on this matter. For as long as I have been involved in cycling activism, Australia has been seen as one of the most hostile and nasty places for cycling in the developed world. In 2004 cyclists held a protest outside the Department of Transport to reject suggestions that Ireland should copy Australia. Why are we using Australia as an example after years fighting against this idea?

Response: We share these concerns. If we are looking for examples to follow in improving conditions for walking or cycling in Ireland, the last place we should be looking is Australia. Australia is in the top five most obese OECD countries, and Australian cities have become a byword for car-dependent sprawl. Australia is also known internationally for its hostile anti-cycling policies and anti-cycling roads culture, particularly its compulsory cycling helmet law. Analysis of the effects of the Australian and New Zealand helmet laws suggests that the main effect was to reduce cycling participation and make cycling more dangerous. For an in depth analysis of the public health failure that is Australia's helmet law, we recommend the website cycle-helmets.com.

The focus on Australia is a side-effect of Phil Skelton's advocacy efforts. Mr. Skelton comes from a sports cycling background and previously lived in Australia. Mr. Skelton is focussed mainly on achieving a minimum passing law. He has put laudable energy into the issue and has won great admiration for his tireless efforts. But his use of Australia as a model for Irish cycling policy arguably represents a threat to the interests of cycling in Ireland. To be fair to Mr. Skelton, he acknowledges some problems with Australia in his blog. But it is not clear that the nuance of this will be obvious outside of cycling.

There are numerous examples of progressive policies and laws that we can take from our neighbours in Northern Europe. We recommend that anyone discussing the MPDL disassociate themselves from comparisons with Australia and stick to tried and tested examples from Europe.

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Graph showing falls in cycling participation in Australia. Australia is a failed model for cycling policy. Ireland should not be using failed models as a policy source. (Source: <http://cycle-helmets.com/cycling-1985-2017.html>, used with permission)

Selected Extracts from other traffic codes.

German traffic regulations

I. Allgemeine Verkehrsregeln §3 Geschwindigkeit 3.(2a) German Road Traffic Regulations, Straßenverkehrs-Ordnung (StVO) December 2010 Accessed at http://www.verkehrsportal.de/stvo/stvo_03.php

(2a) Die Fahrzeugführer müssen sich gegenüber Kindern, Hilfsbedürftigen und älteren Menschen, insbesondere durch Verminderung der Fahrgeschwindigkeit und durch Bremsbereitschaft, so verhalten, daß eine Gefährdung dieser Verkehrsteilnehmer ausgeschlossen ist.

Belgian Traffic Regulations

Article 40. Comportement des conducteurs à l'égard des piétons

Article 40.2. Le conducteur doit redoubler de prudence en présence d'enfants, de personnes âgées ou de personnes handicapées, notamment les aveugles munis d'une canne blanche ou jaune et les personnes handicapées conduisant une voiturette manuelle ou électrique ne dépassant pas l'allure du pas. Il doit ralentir et au besoin s'arrêter.

40.6. En passant près d'un obstacle que les piétons doivent contourner en empruntant la chaussée, les conducteurs doivent laisser un espace libre d'au moins 1 mètre le long de cet obstacle. Si cette condition ne peut être respectée et si un piéton circule à hauteur de l'obstacle, le conducteur ne peut longer l'obstacle qu'à l'allure du pas.

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40.7. Le conducteur doit laisser une distance latérale d'au moins un mètre entre son véhicule et le piéton lorsque ce dernier circule sur la chaussée dans les conditions prévues par le présent règlement.

Si cette distance minimale ne peut être respectée, le conducteur ne peut circuler qu'à l'allure du pas et au besoin doit s'arrêter.

Article 40ter: Comportement à l'égard des cyclistes et des conducteurs de cyclomoteurs à deux roues

Le conducteur d'un véhicule automobile ou d'une motocyclette ne peut mettre en danger un cycliste ou un conducteur de cyclomoteur à deux roues qui se trouve sur la voie publique dans les conditions prévues par le présent règlement.

Il doit redoubler de prudence en présence d'enfants et de personnes âgées cyclistes.

Il doit laisser une distance latérale d'au moins un mètre entre son véhicule et le cycliste ou le conducteur de cyclomoteur à deux roues.

French Code De La Route

Section 2 : Principes généraux de circulation.

Article R412-6

I.-Tout véhicule en mouvement ou tout ensemble de véhicules en mouvement doit avoir un conducteur. Celui-ci doit, à tout moment, adopter un comportement prudent et respectueux envers les autres usagers des voies ouvertes à la circulation. Il doit notamment faire preuve d'une prudence accrue à l'égard des usagers les plus vulnérables.

Section 2 : Dépassement.

Article R414-4

IV. - Pour effectuer le dépassement, il doit se déporter suffisamment pour ne pas risquer de heurter l'usager qu'il veut dépasser. Il ne doit pas en tout cas s'en approcher latéralement à moins d'un mètre en agglomération et d'un mètre et demi hors agglomération s'il s'agit d'un véhicule à traction animale, d'un engin à deux ou à trois roues, d'un piéton, d'un cavalier ou d'un animal.

January 2018: Prepared by Shane Foran on behalf of the Galway Cycling Campaign

Very special thanks from the Galway Cycling Campaign and the children of Ireland to Gretel Kerkhofs, Jan Castermans and the irrepressible children of Kindercampus Tuinwijk Hasselt and Ouderraad Tuinwijk. Picture on page 9 © Jan Castermans and used with permission.

Briefing note on Minimum Passing Distance Law

End notes:

- ⁱ Cosain surveys show 'out of control' speeding in west of city. Martina Nee, *Galway Advertiser*, 25 July 2013.
- ⁱⁱ Davies, D.G., Ryley, T.J., Taylor, S.B. and Halliday, M.E. (1997) *Cyclists at Road Narrowings*. TRL Report No. 241, Transport Research Laboratory. UK: Crowthorne.
- ⁱⁱⁱ Gibbard, A., Reid, S., Mitchell, J., Lawton, B., Brown, E. and Harper, H. (2005) *The Effects of Road Narrowings on Cyclists*. Report No. TRL621, Transport Research Laboratory, January 2005.
- ^{iv} Campaign from the Hasselt Child Campus 2018. See: <http://tuinwijk.kt-scholengroep.be/no-speed-gebied-iouw-mening-telt/> for more.
- ^v Child pedestrian death rates in republic are highest in Europe. S. Breen, *Irish Times*, 2 February 2003.
- ^{vi} <http://irishcycle.com/2017/02/19/this-is-not-a-police-state-road-safety-boss-tells-politicians-looking-for-mandatory-high-vis/>

This document has been corrected from the initial version circulated to the Joint Committee on Transport Tourism and Sport on 5 February as follows: Lower-resolution images added to reduce file size. Typos corrected:

Page 1

Bike week => Bike Week
Campaign => Campaign's
the Minimum Passing Distance Law => the Minimum Passing Distance Law (MPDL)
online Oxford English Dictionary => Oxford Dictionaries online
To go outside a car in Ireland is find oneself => To go outside a car in Ireland is to find oneself

Page 2

At the moment are two bills => At the moment there are two bills

Page 3

bend on country road => bend on a country road
With regards to cyclists => With regard to cyclists
see the Road Danger Reduction Forum blog here => see the Road Danger Reduction Forum here
Despite the fact that some have => Although some have

Page 4

However, we cannot allow => But we cannot allow
highest speeds recorded was => highest speeds recorded were
However the challenge => But the challenge
Outside of towns => Outside of towns
an obvious problem however it is not a problem => an obvious problem but it is not a problem (same edit made on page 5)

Page 5

the failure the Garda Síochána => the failure of the Garda Síochána
This was rejected by the DTTaS => This was rejected by the Department of Transport, Tourism and Sport.
points are within 50km/h => points are in 50km/h

Page 6

The DTTaS claims => The DTTaS's claims
19-Mar-2015 => 19 March 2015

Page 7

Flanders adopted this sign with same meaning => Flanders adopted this sign with the same meaning
In our view children from other => But in our view children from other

Page 8

The conduct of the DTTaS with regards => The conduct of the DTTaS with regard
serves to raise questions regarding the attitude => raises questions about the attitude
undermines their => undermines its
drivers who chose => drivers who choose
conduct themselves such as => conduct themselves so as

Page 11

concerns regarding Mr. Troy's => concerns about Mr. Troy's
has inevitably lead => has inevitably led
principle with regards to child cyclists => principle with regard to child cyclists
outside those countries => outside of these countries
However the falls in cycling participation happened without an equivalent reduction in death or injury. => Moreover, cycling participation fell without an equivalent reduction in death or injury.
This suggests that helmet laws make cycling more dangerous rather than less dangerous. => This suggests that helmet laws actually make cycling more dangerous.

Page 13

The analysis of the effects of the Australian and New Zealand helmet laws suggest => Analysis of the effects of the Australian and New Zealand helmet laws suggests
However, it is not clear => But it is not clear