

The Future of Transport Regulatory Review.

Modernising Vehicle Standards

Zero Emission Vehicles

Response from the National Motorcyclists Council (NMC). November 2021

Introduction.

The National Motorcyclists Council (NMC) welcomes the opportunity to respond to two DfT consultations which have been issued by the Department under the headline 'Future of Transport Regulatory Review'.

The NMC draws together the UK's motorcyclists' representative national organisations, which covers a wide spectrum of motorcycle use from road riding, green road riding, motorcycle sport and motorcycle safety. The collective membership of these organisations and its numerous affiliates, approaches 100,000 individual motorcyclists. The NMC's mission is to work together to help assure a positive and sustainable future for motorcycling.

The NMC's members are: The Auto Cycle Union, the British Motorcyclists Federation, IAM RoadSmart, the Motorcycle Action Group, the National Motorcycle Dealers Association and the Trail Riders Fellowship.

Consultation: Modernising Vehicle Standards.

General Comments

This consultation has already proved to be highly controversial, generating wide attention in the motorcycle world and the media, given how the wording in the consultation can be and has been interpreted by the wider public. It is worded in such a way that suggests that all types of modifications of motorcycles will be outlawed. It also goes further by proposing to outlaw the marketing, promotion and sale of 'tampering services or products'. This appears to be an extraordinary and socially repressive approach to perceived problems which are currently not well defined in the consultation.

The NMC welcomed a recent meeting with the DfT consultation team. During this, it was acknowledged that the consultation was not specific enough. The NMC were reassured that there are no plans to stop all vehicle modifications, or owner 'customisation' but to stop what officials called 'harmful' tampering in the area of emissions control, speed limitation devices and integral software, with a special emphasis on cyber security. Officials also indicated that there is no intention to stop non-OEM repairs/replacements which lead to a more effective result in emissions terms than the OEM specified equipment.

Officials referred to what is seen as a need to 'plug gaps' in existing regulations. The DfT advised that they would forward a list of these 'gaps' prior to the consultation closing date, but as yet, nothing has been received by the NMC or its members.

The NMC appreciated these verbal clarifications. However, the consultation wording itself has not changed. Subsequent to the NMC's meeting with the DfT, the Department published

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an addendum to the consultation, described as an update to clarify the policy intention in relation to vehicle tampering.

This states:

We would like to emphasise that our policy intention is to prevent modifications that have a negative impact on road safety, vehicle security and the environment.

We do not intend our proposals to:

- *prevent legitimate motorsport activities*
- *prevent restoration, repairs or legitimate improvements to vehicles, such as classic cars or motorbikes*
- *negatively impact businesses involved in these activities*

Unfortunately, this 'clarification' still leaves room for wide interpretation, given that it can be argued that multiple systems and components can come under the definitions of 'safety', 'security' and the 'environment'. There is also no clarification of intent regarding the general modification or customisation of modern and non-classic motorcycles.

Therefore, in the absence of information about the specific 'legislative gaps' mentioned by the DfT, the NMC feels it has little choice but to take the unchanged main consultation on face value and respond accordingly.

Our response below reflects the concern of member organisations and ordinary motorcyclists that the proposals suggest that a wide curtailment of the ability of motorcyclists to modify or customise their motorcycles is envisaged.

The Government needs to provide the detail required (and offered) to enable NMC members to consider the proportionality of any legislation and the scope of these when it comes to motorcycle components. Without that detail we are unable to support the 'Tackling Tampering' proposals as they stand. The NMC makes more specific comments further below.

The DfT's offer of ongoing dialogue on what could be encompassed under tampering regulations is however very much welcomed, as is the offer for the NMC and its members to help shape any regulations. We look forward to further discussion with the department on this.

The NMC would remind the Government that anti tampering regulations have been a feature of motorcycle type approval for some years. These are largely aimed at ensuring emissions regulations are adhered to. It has also been illegal to use non road legal exhaust systems on the public highway for many years longer.

Altering the performance of a motorcycle beyond its specific L-Category specification to a 'higher' category requires such alternations to be notified to DVLA, the rider needs to have the correct licence to ride the altered machine and also to properly insure it after it has been so altered. Specific penalties exist for failure to take these steps. This is also the case for

electric bicycles which have been modified to increase performance beyond legal limits (which effectively converts them into motorcycles).

Therefore, we must ask if the DfT is attempting to tackle a problem that is already catered for in regulation and that the real issue is one of enforcement and current market surveillance. This is why it is essential that the NMC understand what the DfT see as 'legislative gaps.'

We are also not convinced that any new regulations could be properly enforced given the resourcing constraints that DVA Market Surveillance and Trading Standards operate under, which we feel will not significantly change if new powers are awarded. We would welcome a further discussion about other market surveillance opportunities.

Specific Comments on the consultation as it currently stands

A modern framework for tomorrow's vehicles – regulating safety, security and environmental performance

With regard to new and innovative vehicle types, the NMC agrees with the need to ensure that technical regulations keep pace with technological developments as they enter the marketplace. It makes sense for these to be as part of the future development of UK Type Approval (UKTA), though the NMC warns that regulatory change should be recognisant of the wider development of international 'Norms' in this area in order to avoid producing a regulatory environment which leads to lack of market access for products – so denying user choice in the marketplace.

We agree that processes to evaluate and approve new vehicle software are desirable. Such evaluation must consider the real-life application of the system in question, not just the technical specification.

Software developers from others than the OEMs should also have the ability to have software approved, given that some aftermarket systems can improve both environmental performance, fuel consumption and the running of engines. OEMs must not have a monopoly of ideas and supply in this area.

It is essential that new technologies and hard/software systems must correctly identify vulnerable road users and be able to respond accordingly. Some existing systems are poor at identifying motorcycles – a problem highlighted by the Federation of European Motorcyclists Associations. (<https://www.femamotorcycling.eu/acc-does-not-always-see-motorcyclists/>)

The NMC would like to see the specific proposals for powers to improve monitoring and enforcing in use compliance and market surveillance. This is because powers in this area already exist in relation to existing regulations, but few resources appear to be available to exercise such powers. For example, Trading Standards do not appear to enforce existing regulations regarding exhaust systems.

A flexible, proportionate and responsive approach to establishing safety, security and environmental performance of vehicles

The NMC broadly accepts this approach, provided proper risk assessments are performed and that there is a level playing field approach to technical regulation.

The Small Series approach, a technical approval option carried over from previous EU regulations, already provides a framework which offers a proportionate approach to checks and balances. Small Series is already utilised in the heavy goods sector.

Small Series is preferable to the 'sand box' approach that has been taken to the e-scooter (powered transporter) regulations for the current trials, where technical and safety aspects for e-scooter construction were applied to only a very basic standard. This has given rise to several safety concerns.

The ability to approve innovative motorcycle designs under the Small Series approach would offer the opportunity for motorcycle buyers to use and evaluate new products which have already been required to meet robust manufacturing standards. This could be an important step to understanding the market acceptability of new motorcycle types and new technologies without requiring the need for full type approval.

For all innovative vehicle designs and types, particularly four (or more) wheeled transport, other road user safety must play an essential part of the regulatory process.

Tackling Tampering

The NMC does not agree with the package of proposals as presented in the consultation document.

The history of motorcycling has been marked by innovation and product development inspired by modifications of products after point of sale by both riders and non OEM businesses. Whole genres of mass market motorcycle manufacture have been created in response to such customisation. An example is 'factory custom' motorcycles which were inspired by rider-led motorcycling culture and customisation. Additionally, the current market leading adventure motorcycle sector draws many design cues from rider experiences on long journeys, innovative owner modifications to motorcycle systems and aftermarket accessory supplier designs being adopted within OEM manufacturing.

Motorcycle sport has a long history of teams and individual riders testing and proving modifications to enhance handling, braking and competition capability, with such developments often finding their way onto updates to OEM products, particularly in areas of safety such as braking, suspension and handling.

Third party applications for improving overall engine performance, mapping and fuel consumption helps to inform R&D on engine management design.

In summary, rider-led modification and customisation has been at the forefront of improvements to motorcycle design, product effectiveness and also product safety.

Innovation from riders and non OEM businesses has in effect 'improved the breed' with many non OEM developments finding their way into OEM manufacturing.

As mentioned above, the NMC noted and appreciated the time that the DfT took to explain the proposals to us. We also note the recently issued clarification note. However the consultation was not withdrawn and redefined, or the deadline extended to allow for further dialogue. Therefore, the NMC must address the Government's anti-tampering proposals at face value.

The NMC disagrees with the proposals as defined because the scope appears to be unlimited, raising legitimate concerns that all kinds of motorcycle modification and customisation is under threat.

The proposals have a retrospective implication to them. This could affect many existing vehicles undermining the ability to maintain these in roadworthy and safe condition if OEM parts are no longer available.

The motorcycle market has thousands of small manufacturers, traders and other businesses providing services to refurbish machines, supply after-market replacement parts, accessories and engineering services. These represent a notable part of the UK's motorcycle economy, with several thousand people employed. The implied extension of current anti-tampering regulations could fundamentally impact on this thriving sector, leading to a loss of employment and tax revenue.

'Tampering Products' are not defined beyond the broad terms of their impact on the 'environment, safety and security' of a vehicle. This could be read as applying to almost every vehicle component. This scope does not exclude beneficial impacts, so modification that improves the environmental, safety or security performance of a vehicle could also be affected.

Proposals relating to marketing, sale and fitting of 'tampering products' strikes the NMC as particularly illiberal and socially repressive. A more proportionate approach needs to be taken.

As mentioned above, anti-tampering regulations and in-use enforcement / surveillance arrangements already exist. The NMC urges the Government to look instead at how the current regime could be made to work more effectively and work with riders to help achieve this.

The NMC fully understands the Government's desire to ensure that environmental standards on new vehicles are not compromised and that software systems should not be 'security-compromised' (cyber security). In principle we support such intentions. We also recognise that the proposals have been inspired in part by users of electric bicycles and powered transporters fitting devices that increase speed beyond legal limits. But the proposals have too many, perhaps unintended, consequences for perfectly acceptable and safe modification and customisation to ignore.

The proposals also need to take account of the motorcycle sports sector and the heritage sector, as indicated in the recent DfT clarification, with sufficient exemptions applied. Proposals will need to be defined in this area.

We therefore urge the government to properly define the scope of the proposals, advise of the legislative gaps that it intends to fill and work with the NMC and its member organisations to define a proper response, where these are genuinely needed, to perceived problems relating to future transport types.

Consultation: Zero Emission Vehicles.

General Comments.

The National Motorcyclists Council (NMC) welcomes the opportunity to respond to the Zero Emissions consultation, noting that this is restricted to charging infrastructure provision.

Although new registrations of zero emissions motorcycles have been rising by significant percentages, it should be noted that this percentage increase is from a small base of numbers and largely restricted to powered two wheelers in the 'moped' and small motorcycle A1 sector. There is still limited product availability in the large capacity zero emission equivalent sector, though this could change once manufacturers publish and implement their plans for a move to zero emission technologies.

However, the current background means that there is still wide concern among motorcyclists about what the future holds, with a high proportion still unconvinced that zero emission technology offers a valid alternative to internal combustion engined motorcycles, particularly battery electric.

A notable part of this concern relates to battery range and the ability to charge an electric motorcycle away from the home.

This response has effectively one key 'call' and that is whatever regulations or legislation that emerge from this consultation, should mandate a requirement for all EV battery charging installations to have charge station technology which is compatible with electric motorcycles.

Statutory Obligation to Plan For and Deliver a Charging Infrastructure.

The NMC broadly agrees with this set of proposals and feels that local authorities are best placed to plan for such infrastructure for residents, businesses and visitors alongside the ChargePoint providers who the consultation envisages will deliver the charging services (consultation p6).

Requirements for local authorities and ChargePoint providers must include minimum standards for both the technology and minimum provision for electric motorcycle types. The specific technology requirement is described below.

Local authorities will need to work with ChargePoint providers to ensure that these standards are implemented and not ignored or set aside due to perceived 'costs' of catering for

motorcycle users. This is a fundamental point if market confidence in zero emissions motorcycle types is to be built.

The requirements and local authority plans should contain an element of 'future proofing' so that future demand can be adequately catered for.

Chargepoints in Non Residential Car Parks.

The NMC broadly agrees with the thrust of these proposals, but it should be noted that some non-residential car parks are associated with small businesses on estate where individual landowners may not be in a position to easily install such facilities in a cost effective manner. The consultation notes that exemptions in certain circumstances will be considered where costs to install are excessive, or there is insufficient electrical supply. The NMC feels these exemptions should be offered and would draw attention to NMC member, the National Motorcycle Dealers Association response to this consultation.

Regarding the minimum level of charging infrastructure, we would urge the same considerations as above to be applied: that this must include minimum standards for both the technology and minimum provision for electric motorcycle types. Given that vehicle manufacturing standards follow regulatory 'Norms' originating outside the UK, the NMC recommends that in line with such standards, the UK should ensure that domestic regulation allows compatibility with the following specifications. These are described in EU regulation 2019/1745:

- For ePTWs up to 3.7 kVA: socket-outlets or vehicle connectors of Type 3A compliant with standard EN 62196-2 (for Mode 3 charging).
- For ePTWs above 3.7 kVA: at least socket-outlets or vehicle connectors of Type 2 as described in standard EN 62196-2

(Source: ACEM – European motorcycle industry)

Making the Rapid Charging Fund

The NMC has no specific comments.

Improving the Experience for Electric Vehicle Users.

The NMC welcomes the proposal that new primary powers are planned to ensure inclusively designed public chargepoints are available for all on the basis that 'all' includes catering for the charging needs of electric motorcycles.

We also welcome the Government's plan to consult further in standardised definitions and specifications and will comment further on the charging technology needs of electric motorcycle users at that time.

Regarding strengthening the provisions for private charging, the NMC also sees a case for this, given the current lack of electric motorcycle charge points. We would welcome a discussion with Government on this point.

The NMC supports in principle the other proposals in this section of the consultation.

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About the National Motorcyclists Council

The National Motorcyclists Council (NMC) is a coalition of motorcycling representative organisations, which works together on commonly held positions about issues where motorcyclists seek to change or influence government policy. It also researches issues to both inform campaigning and support the individual work of its members.

The NMC's mission:

'Working together to help assure a positive and sustainable future for motorcycling'

The NMC brings together a broad spectrum of representative national motorcyclists organisations. These range from riders campaign groups, to motorcycle sport representatives, off road and green roads interests, motorcycle dealerships and road safety experts.



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