

Proposal for the Mandatory Wearing of Helmets on Motor Tricycles

Synopsis of Consultation Responses
February 2016

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1. Introduction

- 1.1 The purpose of the consultation was to gather views on the Department's proposal to make the wearing of helmets mandatory for riders and/or drivers of, and passengers on, motor tricycles used on public roads.
- 1.2 The Department has power to make regulations requiring persons driving or riding on motor cycles to wear protective headgear under Article 27 of the Road Traffic (Northern Ireland) Order 1995. Those requirements are set out in the Motor Cycles (Protective Headgear) Regulations (Northern Ireland) 1999 and apply to persons driving or riding a motor cycle when on a road.

2. Background

- 2.1 In 2011, due to increasing public concern about the risk of serious or fatal injuries to motor quadricycle (quad) riders involved in collisions on the public road, the Department decided to investigate a proposal to make the wearing of helmets on these vehicles compulsory.
- 2.2 Following a consultation exercise which the Department ran in 2012, it was evident that there was support to make it mandatory to wear helmets on quads, giving riders on such vehicles much better head protection and helping to reduce serious injuries or fatalities. The Department decided that the appropriate way forward was to implement primary and secondary legislation to require the wearing of helmets by quad riders.
- 2.3 The legislative power to mandate the wearing of helmets on quads has been included in the Road Traffic (Amendment) Bill. The Bill is currently awaiting Royal Assent and once it has been enacted, the next step for the Department will be to implement subordinate legislation to give effect to this policy decision and to mandate the wearing of helmets on quads in secondary legislation.
- 2.4 During the scrutiny of the Bill in the Committee Stage of the Assembly process, Departmental officials were asked, by Members of the

Environment Committee, to consider also extending the requirement to wear helmets when riding motor tricycles on the public road.

2.5 Therefore the Department obtained Ministerial approval to publish a consultation in order to obtain public opinion on whether to extend this requirement to motor tricycles. Given the legislative requirement to introduce the new regulation, the Department consulted on three options:

- Do nothing - No legislation would be required and there would be no cost or impact on the community or the small vehicle industry.
- Require the wearing of helmets for riders and passengers on (or in) all vehicles falling within the definition of “motor tricycle”.
- Require the wearing of helmets only on all-terrain or non car-like trikes - This option would require an precise vehicle definition for the purpose of requiring the wearing of helmets on non-car like trikes.

2.6 The Department has indicated the third option as its preferred option on the basis that it would provide the maximum safety potential with the minimum adverse impact on industry or users of motor tricycles.

3. Consultation responses overview

3.1 The consultation ran from 24 June until 19 August 2015 and was published on the DOE website. We also sought to notify key stakeholders at the time of publication to ensure that they had the opportunity to respond to our proposal. This included members of the Department's Motorcycle Safety Forum which includes representation from organisations such as the British Motorcyclists Federation

3.2 The Department received, in total, 104 responses to the consultation on the proposal to make the wearing of helmets mandatory for riders and/or drivers of, and passengers on, motor tricycles used on public roads.

Respondents	Responses
Public Prosecution Service	1
Women's Forum NI	1
Department for Regional Development	1
Northern Ireland Ambulance Service	1
British Motorcyclists Federation	1
Public Health Agency	1
Law Society of Northern Ireland	1
The British Biker Relief Fund	1
Right to Ride	1
North Down Advanced Motorists	1
Motorcycle Action Group	1
Police Service of Northern Ireland	1
Northern Ireland Fire & Rescue Service	1
Individuals	91
Total responses	104

3.3 The majority of the individuals (91) who responded were motorcycling enthusiasts. Responses were also received from the main emergency services - the Northern Ireland Ambulance Service (NIAS), the Police Service of Northern Ireland (PSNI) and the Northern Ireland Fire & Rescue Service (NIFRS).

- 3.4 A number of organisations who represent the interests of motorcyclists in Northern Ireland and the wider UK also replied to the consultation – the British Motorcyclists Federation, Right to Ride and the Motorcycle Action Group (MAG).
- 3.5 Although this proposal only extends to Northern Ireland, there were 25 individual responses (24.04%) known to have come from other parts of the UK.
- 3.6 Of the 104 responses received, only one respondent (less than 1%) provided no comment. In the remaining 103 responses received, 41 respondents (over 39%) fully answered the list of consultation questions issued with the consultation. Sixty-two respondents (under 60%) did not provide specific responses to the questions asked, but submitted a general statement in reply to the consultation.
- 3.7 In light of the above, it is important to note that when collating and summarising the specific replies to the consultation questions, the Department has been unable to fully calculate and categorise all of the respondents' opinions to the questions posed. Therefore, the figures given in each of the consultation questions in section four may not fully indicate all of the responses received. However, all percentages have been calculated on total responses received (104).
- 3.8 Overall, eight of the respondents (7.69%) are in favour of the Department's proposal to mandate the wearing of helmets on motor tricycles whilst 95 respondents (91.35%) are opposed to its introduction. The majority of the respondents opposed to the proposal are members of, or represent the motorcycling community in Northern Ireland and the rest of the UK. The remaining respondent (0.96%) did not provide any comment.
- 3.9 Section 4 of this paper summarises the views of those who provided specific responses to the consultation questions. Section 5 summarises the general responses received to the consultation. The Departmental response to the consultation responses is set out in Section 6 of this paper.

4. Consultation responses detail

Consultation Question

Q1. Do you think that one of the listed options is the way forward?

- 4.1 Forty-one of the 104 respondents answered this question (39.42%). Thirty-eight respondents agreed that there was an option listed that was the way forward. However, eight (7.69%) of the responses were in favour of Option 3 which is the Department's preferred option and thirty (28.85%) were in favour of Option 1 which was the baseline option of keeping the status quo with regard to the law for helmet wearing on motor tricycles. Three respondents (2.88%) did not see any of the listed options as a way forward.
- 4.2 Those in favour of Option 3 felt that motor trike riders should be instructed to wear the same protective equipment as other riders of two-wheeled motorcycles and quads. Other respondents felt that Option 3 provides the maximum safety potential with minimum adverse potential on industry of trike users. Respondents noted that the Department has specifically defined the types of trikes to be covered, and highlighted their support to the introduction of legislation for these trikes. The NIFRS also gave its support to Option 3 and stated that this option provides protection to the most vulnerable without adversely impacting on a broader group of road user.
- 4.3 Those opposed to the proposal felt the consultation provided no evidence that suggests there would be any benefit to the compulsory wearing of helmets. They also felt the consultation was singling out people on trikes and was a form of persecution. Those against felt there was insufficient evidence to confirm that the introduction of this requirement would have any impact whatsoever on the casualty rate. They stated that any new law must prove that the benefit of its introduction would outweigh the costs.
- 4.4 One UK respondent noted that if this were introduced in Northern Ireland, there would be a concern in other areas of the UK that the imposition of such legislation in NI, could and would result in an easier

passage of similar laws in GB. Other respondents stated that they ride a trike for pleasure and enjoy not wearing a helmet for reasons of comfort. They felt that this proposal would have a negative impact on tourism in NI as many people who ride trikes would be put off travelling to enjoy the beautiful scenery of the coastline in Northern Ireland on holiday. No statistical evidence was submitted to support this claim.

- 4.5 Respondents opposed to the measure felt that the reported incidence of fatalities and injuries quoted in the consultation were minor and that the Department was unable to attribute any of these fatalities and injuries to not wearing an approved helmet. They also noted that the consultation did not mention whether or not those injured were or were not already wearing helmets, by their own choice.
- 4.6 One respondent highlighted that there would be an additional cost impact on agricultural trike users who only use their vehicles on road for movement between farmlands. This respondent believed the introduction of this proposal would be an unnecessary extra burden on the rural businesses, many of whom are already suffering hardship. Helmets cost from around £40 and users may also choose to purchase a holder which costs around £50.
- 4.7 Another respondent believes that it is a mistake to compare riders of trikes with quad riders. The respondent advised that riders of trikes tend to be older riders, usually ex-bikers who may well have built their machines themselves. They have years of riding experience and could well have been attracted to trikes partly by the lack of a helmet law. The respondent stated that, quad riders, on the other hand, are often either farmers or young lads with little or no experience of riding motorcycles. They have bought a quad on a car licence in order to get the thrills of a motorcycle without the hassle of the training and test. As a result they usually lack the skills to ride safely. Quads, with their short wheelbase and narrow profile, are more prone to tipping over than most trikes which compounds the problem. Based on DVLA licensing figures there are 250 motor tricycles registered and 235 motor tricycles with a statutory off road notification (SORN) in Northern Ireland as at the 31 December 2014. DVA testing figures also confirmed that there were 260 motor tricycles which had a full MOT test during the 2013/14 financial year.

4.8 Three respondents did not see any of the list options as a way forward. These respondents commented that there is not enough room for improvement to make legislation justified. Another asked how much research has been done to ascertain how many deaths and serious injury has been inflicted on drivers of open top cars and classic sports cars when they are involved in an accident and are not wearing a helmet.

Consultation Question

Q2. If the answer to question 1 above was yes, which option do you feel provides the appropriate way forward?

4.9 Thirty-eight of the 104 respondents answered this question (36.54%). Thirty (28.85%) of the respondents went for Option 1 whilst eight (7.69%) respondents chose option 3. None of the respondents chose Option 2.

4.10 Those respondents who chose Option 1 as the appropriate way forward felt that there is no evidence base to show that the introduction of mandating the wearing of helmets on motor trikes would contribute to a reduction in road casualties. One respondent stated that these proposals are another example of unnecessary legislation for which there is no quantifiable justification or proven causality between the lack of wearing helmets and an increase in the number or severity of accidents. Another respondent believed that the Department could achieve a far greater reduction in casualties by addressing activities where there is clear and compelling evidence.

4.11 Comments were also received that this legislation would be an unacceptable infringement of civil liberty.

4.12 One organisation who responded in favour of Option 1 highlighted its regret at the loss of lives on motor trikes. It noted that there is no record of understanding as to whether or not these events involved any injury to the head and therefore felt that the need for the DOE preferred

Option 3 is unsubstantiated. The organisation did advise that it would support any campaign from the DOE to encourage the use of protective helmets amongst riders of trikes.

- 4.13 Another organisation which represents the interests of motorcyclists stated the statistics quoted in the consultation, although regrettable, were not significant enough to support the changes being proposed. The organisation felt that the data provided regarding deaths and serious injuries was drawn from a tiny sample, far too small to form a meaningful basis for a major change in legislation. The organisation continued that the consultation document offers no clarity on the cause of injury or death, or the likely impact of wearing or not wearing helmets in each of these incidents - or whether the riders were even wearing helmets. This organisation went to compare the evidence in the consultation to the number of fatalities and injuries caused on the roads by alcohol (23 deaths, 120 serious injuries and 439 slight injuries in 2009-2010 alone) and stated that this, along with other examples provided, would achieve far higher savings in health and cost to the health service than would helmets on motor trikes.
- 4.14 The organisation then discussed the fatality and injury figures set out in the consultation document. Across the seven year period, there were two deaths, three serious injuries and five slight injuries. The organisation quoted the charity Headway's statistics, stating that there are around 170,000 minor, moderate and serious head injuries in the UK every year. The charity claims almost half are directly related to road traffic accidents. Pro-rata, this would indicate the Northern Ireland health services deal with over 4,000 road accident-related head injuries per annum, of which – by the Road Safety and Vehicle Regulation Division's own statistics - no more than nine (9) could possibly have been generated by trike accidents – across the whole of the seven years from 2008-2014. The organisation reckons that the rest must necessarily have been the result of car accidents, pedestrian-related collisions and accidents involving those already wearing helmets: these riders again form a small minority of the total tally since they constitute less than 3% of road traffic. The organisation therefore believes that there is a far stronger case to impose the mandatory wearing of helmets on car drivers and passengers than to impose it on trike riders. They highlighted that to impose the regulation upon trike riders instead is

therefore plainly discriminatory in regard to the liberties and rights of users of powered three wheelers versus those of car drivers – a position the organisation is confident would be upheld in a court of law.

- 4.15 The organisation also mentioned that the consultation does not even identify whether the trike related injuries were head related, and whether these made any difference to the ultimate condition or fate of the riders. The organisation believes that the consultation in omitting to ascertain if these were head injuries, disregards the fact that thousands more head injuries occur every year in cars. The organisation concludes that seeking to enforce a mandatory helmet law may lead to a legal challenge on the basis of demonstrable discrimination against the riding community, for example in the context of Article 14 (Prohibition of discrimination) of the European Convention on Human Rights.
- 4.16 The statement (summarised above) received from the organisation reaffirmed the opinions of the majority of responses received that were opposed to the proposal.
- 4.17 One respondent who is opposed to the proposal highlighted that there is evidence from the United States which has shown that where mandatory helmet laws are repealed, death and serious injury does not increase and may in fact decrease¹. The respondent talked about his own experience as a motor trike rider and when he is required to wear a helmet, he stated that he is very aware of the restriction of (particularly peripheral) vision whilst wearing a helmet. The respondent feels that when on a motor trike, which has a greater width and relative lack of manoeuvrability compared to a motorcycle, wearing a helmet is likely to create a greater hazard to the rider rather than its perceived safety.
- 4.18 The respondents who are in favour of Option 3 felt that for the Department to do nothing is irresponsible. They believed that having a definition that would only legislate for non-car like motor trikes is crucial. The Public Prosecution Service believed that to require the wearing of helmets in car-like trikes would be patently ludicrous in the same vein as wearing a helmet in a family car where adequate protection is

¹ Public Safety and the Risk Compensation Hypothesis :the example of motorcycle helmet legislation – JGU Adams – Environment and Planning C : Government Policy 1983 Vol 1 pgs 193 – 203

provided in the event of collision by means of seat belts and roof or roll bars.

- 4.19 These respondents stated that saving lives is more important than the cost of helmets. It was also noted that the alarming vulnerability of rider and, more strikingly, the passenger on a motor trike in even low speed collisions calls out for legislative measures to increase safety for users.
- 4.20 These respondents noted that option 3 would be the best solution as trike riders and their passengers would have to have the necessary head protection whilst on public roads but drivers of car-like vehicles would not be impacted upon. The NIAS felt that although the incidents of death and serious injury attributed to collisions involving trikes over the last seven years is relatively small, steps should be taken to try and rule these out completely and help Northern Ireland on 'The Road to Zero'. The NIAS believe that riders are vulnerable road users and those who do not wear a helmet run a much higher risk of sustaining head and traumatic brain injuries.

Consultation Question

Q3.

If your answer to question one was no, can you suggest a possible alternative course of action? Please give details.

- 4.21 There were nine responses to this question (8.65%).
- 4.22 One respondent felt there was no real need to put this into legislative force but was content for the Department to provide information and advice on this issue. This respondent also questioned the figures quoted for casualties and costs at an average cost of £475,000 per person. The respondent also doubted that making helmet wearing on motor trikes a requirement would actually prevent all or even some of these casualties.
- 4.23 Other respondents felt that there should be more emphasis and support in providing better training and education for all road users, not just riders of trikes. Other suggestions from respondents were:

- fair and equitable licensing either reducing the complexity for motorcycle licences or apply power restrictions for new car drivers
- improving the quality of the public roads
- improve road safety by subsidising IAM training so more riders/drivers become advanced riders/drivers.

Consultation Question

Q4. Do you think the sales market for trikes will be affected by the introduction of this policy?

- 4.24 Thirty-six of the 104 respondents answered this question (34.62%). Twenty-nine (27.88%) respondents stated that they did think the sales market for motor trikes will be affected by the introduction of this policy whereas seven (6.73%) respondents did not feel there would be an impact.
- 4.25 One respondent who is in favour of the proposal felt that the wearing of helmets, despite its obvious safety benefit, may be perceived as inconsistent with the 'freedom' image of a trike. The respondent considered that this may impact initially on the sales of vehicles but that this will stabilise when helmets become the norm.
- 4.26 Some respondents believe that as the legislation embeds in it will become an accepted cost of owning a tricycle, just as it has with motorcycles/mopeds. One respondent noted that if there is a negative effect on the sales of trikes it will be minimal, as motor trike riders have a huge affinity to these types of machines and associated lifestyle.
- 4.27 Those who are against the introduction of the helmet wearing on motor trikes believe there would be a negative effect on the sales market for motor trikes. Their comments included that the market is already small (260 or so trikes) and that any additional costs will be detrimental. The inconvenience of having to carry a helmet around or leave with the vehicle where it is vulnerable to theft and damage. Another respondent believes that anything that restricts freedom has an effect.

- 4.28 Some respondents advised that the imposition of the compulsory wearing of helmets would remove riding a motor trike as a key attraction and, for many, there would be little purpose in having a trike and so the market would more than likely be destroyed. Other respondents highlighted that this is likely to affect tourism as those who ride motor trikes like to tour scenic areas on these vehicles. They added that if the proposal was introduced, this would have a negative impact on those who ride motor trikes in coming to Northern Ireland for leisure purposes.
- 4.29 Respondents against the proposal also noted that riders of trikes may do so for various reasons, including disability. In some cases there may be a reason why they are unable to wear a helmet, and ride a trike instead of a motorcycle. They feel that mandating the wearing of helmets on motor trikes would reduce the number of people buying trikes, because they would have to purchase a helmet before being able to ride, even as a passenger. They believe that this would discourage people from using these particular vehicles. No evidence was submitted to support this claim.
- 4.30 A number of respondents believed that there is no doubt that the introduction of mandatory helmets will substantially reduce the sales of trikes, given that the freedom to ride without a helmet is a key attraction of this mode of transport. The loss of sales will significantly exceed any uplift in sales of helmets. They also noted that a substantial proportion of motor trike riders already possess helmets, and as such it is not tenable to suggest an increase in helmet sales will counterbalance the loss of sales of trikes. This will therefore negatively impact the economy.
- 4.31 Some respondents who felt that this would not impact on the market stated that from their own personal observation, they have seen many trike riders wear helmets already.

Consultation Question

Q5. Do you agree that this policy should also be introduced for disabled drivers/riders?

- 4.32 Thirty-seven of the 104 respondents answered this question (35.58%). Eleven (10.58%) of the respondents were in agreement that this policy should also be introduced for disabled riders of motor trikes. Twenty-six (25%) respondents disagreed to this proposal.
- 4.33 Those that were in favour felt that there should be no distinction regardless of ability and that safety and protection is common to all road users. One respondent agreed that the policy should be applied to people with disabilities unless the person's disability precludes the wearing of a protective helmet. There may also have to be an exception on religious grounds in, for instance, the case of Sikhs who wear the turban as part of their religious observance.
- 4.34 Some respondents advised that road risk is the same for all users and that enforcement is more practical with a uniform approach. They believe the policy should be introduced for all riders regardless of disability. Improving safety and enhancing a person's chances of survival following a crash is paramount.
- 4.35 Those who disagreed advised that life is hard enough for disabled drivers without adding another burden. Other respondents felt that a person having restricted mobility cannot be considered as a deciding factor, save for almost unique personal circumstances. They suggested that these cases should be considered in the same way as faith based head-coverings such as those worn by male members of the Sikh community. One respondent stated that they are partially disabled and see absolutely no reason for themselves to wear a helmet on these vehicles. The Department included IMTAC and Disability Action in the list of consultees but neither responded.
- 4.36 Many opposed to the introduction of the proposal thought that this was a leading question and contains bias that the proposal would be accepted. Others could not see any justification for a two-tier system

unless the disabled rider has a legitimate medical reason for this exemption.

4.37 A few respondents opposed to the proposal advised that the policy should also apply to disabled drivers/riders if it were to be introduced. By introducing mandatory helmet wearing for particular groups of road users, and then introduce exemptions based on disability adds ambiguity and encourages discrimination. These respondents believe that the law should be fit for all, and if it is not fit for all then it should not be made into law. They noted that to create different legislation would constitute discrimination and is open to legal challenge.

Consultation Question

Q6. Do you feel there is a more effective way to define trikes in legislation? If yes, please give details.

4.38 Thirty-two of the 104 respondents answered this question (30.77%). Twenty-seven (25.96%) respondents did not feel there was a more effective way to define trikes in legislation. Five respondents (4.81%) did feel the definition should be changed.

4.39 A number of respondents preferred the “motor quadricycle” definition suggested in the consultation as it appears simple and effective. These respondents believe the proposed definition appears to be a sound definition rather than to be drawn into argument over body type, roll bar specification and seatbelt requirements. One respondent advised that if the term ‘symmetry’ is used to define motor trikes, then the axis of symmetry should be specified.

4.40 The PSNI raised a concern over the inclusion of unladen weight in the definition as it felt it may provide an opportunity for an individual or manufacturer to produce a machine which exceeds the unladen weight and subsequently fall outside the scope of the legislation.

- 4.41 Many respondents felt that this was an arbitrary task given that there was no sufficient evidence provided in the consultation, in their opinion, to bring in this legislation.
- 4.42 Other respondents highlighted that the definitions for both motor trikes and quads could be circumvented by, for example, changing handle bars to a wheel and increasing the unladen weight to greater than that in the definition.
- 4.43 One respondent suggested that the best definition of a motor tricycle would be similar to that of the Directive 2002/24/EC, with the key features being "three symmetrically arranged wheels" and having an engine larger than that of a moped.

5. Summary of general consultation responses received

- 5.1 Of the 104 responses received, Sixty-two respondents (under 60%) did not provide specific responses to the questions asked, but submitted a general statement in reply to the consultation. Below is a summary of those responses received. All of these responses are opposed to the introduction of mandatory wearing of helmets on motor trikes.
- 5.2 Respondents do not believe there is satisfactory evidence to prove any significant safety benefit that supports taking away the riders choice to wear a helmet or not. In the six years between 2008 and 2014 there have been only two fatalities and three serious injuries sustained by trike riders in Northern Ireland. Respondents feel that there is no evidence to suggest that a helmet law might have affected this tiny number of cases. Some respondents felt that the move to enforce helmet wearing for trike riders in common with the wider helmet law for all bikers would seem to be motivated more by an unhealthy appetite for conformity than any objective assessment.
- 5.3 Other respondents considered that wearing helmets on motor trikes should be voluntary not compulsory. They felt that the introduction of the proposal would ruin other people's freedom of choice and was against their civil liberties. Many felt that this is a proposed 'solution' to a problem that does not exist that would impinge on the freedom of all

trike riders. It was noted by many respondents that a lot of trike riders in Northern Ireland voluntarily wear helmets, and respondents believed that it is vital that the choice to do so or not remains with the rider.

- 5.4 Many respondents felt that this proposal was discriminatory. They feel it is hypocritical for a government to victimise bikers in this way when others whose indulgences indisputably represent a huge public burden are permitted free choice. They stated that the ability of the government to force helmet compulsion on bikers, when others, including smokers and the obese, are permitted unlimited license to indulge their injurious behaviour, owes everything to political feasibility and nothing to justice.
- 5.5 Some respondents suggested the following proposals for the Department to examine to help reduce casualties on the roads:
- Improving road conditions for powered two wheelers and motor trikes;
 - Better awareness and observation training for car and lorry drivers; and
 - Harsher penalties for driving/riding under the influence of drink and drugs.
- 5.6 A number of respondents discussed the figures presented in the consultation document. One respondent noted that whilst any death is regrettable, they consider the proposal for mandatory wearing of helmets on motor tricycles completely disproportionate to the issue and completely unnecessary. They highlighted that there have been 2 trike deaths and three serious injuries in Northern Ireland across the 6 year period which they stated is a tiny proportion of total casualties on the road. Other respondents also noted that there is no evidence in the consultation document that the injuries and deaths would have been prevented if the riders had been wearing helmets. There is also no indication about whether the casualties were in fact wearing helmets at the time, as can sometimes be the case on trikes. Respondents advised that a large proportion of travel related head injuries occur in cars. These respondents believe that on health benefits alone, the emphasis should be put on reducing injuries for car drivers and passengers rather than on motor trike riders who represent a much smaller proportion of the injury statistics.

- 5.7 A number of respondents noted the comparison to quads. One respondent felt that the Department was not extending the requirement to agricultural quads and trikes when on the road. Some respondents highlighted that three-wheeled trikes do not turn over as easily as quads and do not require the wearing a crash helmet as they have seat belts.
- 5.8 Some respondents advised that quads are predominantly agricultural (off road) vehicles and are not in the same category as motor trikes. They added that quads are used by farmers for work purposes whereas trikes are used for pleasure purposes. One respondent agreed that quads used in a working environment should fall under the umbrella of the Health & Safety at Work act 1974 and the use of a helmet when operating such a machine would effectively be classed as Personal Protective Equipment (PPE) as in any other industry. However, this respondent stated that trikes are not required for the same vigorous demands as a quad is used for and therefore, the risk involved riding a machine for pleasure as opposed to work is considerably reduced. This respondent felt that the Department should focus on and give priority to quads due to their design, nature and lack of training for use on private land.
- 5.9 Another respondent advised that the introduction of mandatory helmet wearing for drivers of quads would adversely impact on the normal and lawful pursuit of farmers, agricultural workers and others who have to occasionally use the vehicles on public roads to access parts of otherwise private land whilst engaged in their normal course of business.
- 5.10 A number of respondents highlighted that wearing a helmet on a motor trike restricts their freedom of head movement and peripheral vision. They feel that being made to wear a helmet on these vehicles is unnecessary and could be more hazardous. One respondent noted that many American States are actually repealing the helmet wearing laws pertaining to powered two wheelers. Respondents also stated that individuals ride far more carefully without a helmet whether on a motorcycle or trike.

- 5.11 It was mentioned on several occasions by different respondents that trike riders were being penalised when collisions were being caused by other road users and therefore the onus should be upon Government to ensure measures are taken to train these road users to a higher standard.
- 5.12 A number of respondents asked whether research has been carried out to ascertain how many deaths and serious injury has been inflicted on drivers of open top cars and classic sports cars when they are involved in a collision when not wearing a helmet. Many of the respondents felt that if the mandate was being introduced for motor trike riders, it should also be introduced for drivers of open top cars and classic sports cars otherwise the proposal could be regarded as discriminatory.
- 5.13 Some respondents believe that if this proposal is introduced, it will only deter riders from the rest of the UK and abroad coming to Northern Ireland and will lead to a marked reduction in tourism spending from trike riders. It was also highlighted that it will reduce demand for motor trikes and adversely affect businesses in this sector.

6. Departmental response to consultation responses

- 6.1 The consultation on the proposal to introduce mandatory wearing of helmets on motor trikes came about as a result of implementing another policy measure. During the scrutiny of the legislation to mandate helmet wearing on quads, Members of the Environment Committee raised the issue of extending this requirement to motor trikes. During the course of these discussions with the Committee, the Department made a commitment that it would consider this matter. The consultation is part of that process of consideration.
- 6.2 Several recurring issues have been raised by respondents in their responses to the consultation. The Department has undertaken to identify these issues and will respond to each of them in turn in this section.

Proposal is an infringement of civil liberty and is discriminatory

- 6.3 The Department deems that this policy proposal is not singling out riders of motor trikes rather extending a safety requirement which is already compulsory for those riders of two-wheeled vehicles and will be compulsory for riders of quads soon, once the Road Traffic Amendment Bill receives Royal Assent.
- 6.4 In arriving at a definition for this policy proposal, the Department has given careful consideration about to which types of motor trikes this requirement should be extended. Indeed, in its consultation, the Department set out the option to include all motor trikes (including those which look like cars).
- 6.5 The car-like motor trikes have, however, other means of protection, for example seat belts whereas as bike-like trikes do not have other means of protection. It is noted that a number of stakeholders in the responses to the consultation felt that if the mandate was being introduced for motor trike riders, it should also be introduced for drivers of open top cars and classic sports cars. These vehicles also provide other means of protection such as seatbelts.

- 6.6 The Department does not intend to deny people in Northern Ireland their freedom of choice. However, the proposal to mandate the wearing of helmets has been consulted upon after it was raised by the Environment Committee as a road safety concern and also after considering PSNI collision data. The Department has consistently stated that that one death on our roads is one death too many.
- 6.7 The Department believes the proposal to mandate the wearing of helmets on motor trikes on a public road will help make the roads in Northern Ireland a safer place for all road users.

Proposal could be introduced to other parts of the UK / Impact on tourism and agricultural sectors

- 6.8 Road safety is a devolved matter and is the responsibility of the Department of the Environment. This proposal will only affect those who ride motor trikes in Northern Ireland. The Department has no influence in what policies are implemented in other jurisdictions of the UK. The Department is introducing this measure to help improve safety on NI roads only.
- 6.9 It is unfortunate that some stakeholders from other parts of the UK, in their responses to the consultation advised that they would no longer come to Northern Ireland as a tourist on their motor trikes. The Department does not want to discourage tourism from this section of the population. In its proposal, the Department hopes to make NI, for anyone who visits riding a motor trike, quad or two-wheeled motorcycle or any other road user for that matter, a much safer destination for road travel and tourism. While trike riders from outside NI have claimed that introducing the compulsory wearing of helmets will have a detrimental impact on NI tourism there is no meaningful way in which to identify a perceived impact. Neither has any factual evidence been submitted to support this claim.
- 6.10 The Department has already consulted on proposals to mandate the wearing of helmets on quads which are known to be used significantly in the agricultural sector. The Department believes that this requirement should be extended to motor trikes used on roads. The Department has engaged with the Northern Ireland Health and Safety Executive

(HSENI) regarding mandating helmets wearing for quads and trikes on public roads. HSENI strongly advises farmers to wear appropriate headgear (including suitable helmets) when three and four wheeled motorcycles are being used for agricultural work purposes. HSENI has confirmed that any helmet being worn on a motor trike driven on the road should be of a standard which meets the criteria set out in the Motor Cycles (Protective Headgear) Regulations (Northern Ireland) 1999. Both the Department and HSENI believe that the road safety benefits will outweigh the costs of buying a helmet for those in the agricultural sector.

Consultation statistics do not support policy proposal

- 6.11 In the consultation document, it stated that from 2008 to 2014 there were two people killed riding motor trikes used on public roads in Northern Ireland with three people seriously injured and five people slightly injured. It also noted that even if these riders were wearing helmets it would not have necessarily prevented injury or death.
- 6.12 The Department appreciates that stakeholders feel, that although tragic, the number of casualties cited in the consultation does not represent a significant figure in the total number of road casualties. The Department also notes that it is unable confirm whether or not a helmet would have prevented injury in these cases.
- 6.13 However, as mentioned previously, the Department firmly believes that one death on our roads is one death too many. Although this new requirement may not have a direct impact on the number of casualties, it has the real potential to reduce the severity of injuries sustained. The Department believes that preventative measures can only benefit the road safety issues associated with motorcycling and in this particular case, motor trikes. Also, the Department feels that if there is a requirement for riders of two-wheeled motorcycles and quads to wear helmets on road safety grounds then this should also be extended to those on motor trikes who due to the lack of protect in the event of a RTC are as likely to be injured or killed as a rider of a two-wheeled motorcycle or quad..

Other research shows that wearing helmets does not necessarily mean a reduction in road deaths

- 6.14 Some respondents to the consultation cited studies that would argue that where mandatory helmet laws are repealed, death and serious injury does not increase and may in fact decrease. One study quoted was that by J.G.U. Adams². In this report, Mr Adams argues that people's behaviour is influenced by their perception of risk. In terms of motorcycle helmets, Mr Adams maintains that if a rider does not wear a helmet, they will be more risk averse in their riding behaviour on the road.
- 6.15 The Department notes this argument but would highlight that motor trikes are not the only vehicles on our roads. The Department is also aware that it not always the responsibility of the motor trike rider for road traffic collisions. However, motor trike riders and passengers, as part of the wider motorcycling road user group, are one of the most vulnerable road user groups. Therefore, in putting forward this proposal, the Department wants to ensure that riders and passengers of motor trikes can enjoy riding on our roads as safely as possible. A literature review of the effectiveness of motorcycle helmets undertaken by the Transport Research Laboratory³ shows that helmets reduce the risk of fatal head injury by around 50%.
- 6.16 The Department also notes that responses to the consultation highlighted that when wearing helmets, there were issues with lack of manoeuvrability and peripheral vision. However, the Department believes that, with technological improvements in helmet standards and the safety helmet assessment and rating programme (SHARP), wearing a helmet can bring significant safety benefits for motor trike riders.
- 6.17 The Department would encourage all riders and passengers of motor trikes to avail of SHARP as research has shown that up to 50 lives could be saved each year if motorcyclists wore the safest helmets available to them. All helmets must meet minimum legal safety standards but the SHARP scheme uses a wider range of tests to

² Public Safety and the Risk Compensation Hypothesis :the example of motorcycle helmet legislation – JGU Adams – Environment and Planning C : Government Policy 1983 Vol 1 pgs 193 – 203

³ “Motorcycle Safety Helmets: A Literature Review”, Transport Research Laboratory, Cost327, TRL, 1997

provide riders with more information on how much protection a helmet can provide in a crash. The SHARP tests award ratings of between 1 and 5 stars and show that the safety performance of helmets can vary by as much as 70%. Helmets across a wide price range score highly so all riders can find a high performing helmet in a size and style that fits them and at a price they want to pay. Details of helmets that have been rated to date and further information about the helmets can be accessed via the SHARP website (<http://sharp.direct.gov.uk/>).

The Department should concentrate on other more significant road safety measures rather than this proposal

6.18 The Department works hard to continuously improve the safety of our roads. The Department's aims and objectives to improve road safety are set out in Northern Ireland's Road Safety Strategy to 2020 which outlines the key challenges to be addressed over its life, the aim of which is ultimately to work towards achievement of the vision which is:-

'To make a journey on Northern Ireland's roads as safe for all users as anywhere in the world'.

6.19 The road safety targets for 2020 (measured against a baseline of the 2004-2008 average figures) are:

- To reduce the number of people killed in road collisions by at least 60% by 2020.
- To reduce the number of people seriously injured in road collisions by at least 45% by 2020.
- To reduce the number of children (aged 0 to 15) killed or seriously injured in road collisions by at least 55% by 2020.
- To reduce the number of young people (aged 16 to 24) killed or seriously injured in road collisions by at least 55% by 2020.

6.20 As part of the Road Safety Strategy, the Department committed to reduce motorcycling casualty numbers. This included establishing a Motorcycle Safety Forum with a range of stakeholders which considers and inclusive and strategic approach to motorcycling.

- 6.21 Through the course of interaction with the Motorcycle Safety Forum, the Department has become aware that motorcycling can be different from other modes of transport in terms of patterns of travel and environmental influences. The design of motorcycles and scooters means that they have unique characteristics when compared with other vehicles and are extremely sensitive to road and maintenance design features and impacts with objects. These elements along with the lack of physical protection, including helmets, makes motorcyclists and their passengers among the most at-risk road users.
- 6.22 The Department works on a lot of significant issues to help improve road safety in Northern Ireland. However, the Department believes that this proposal is no less significant than any other measure set out in the Road Safety Strategy. Although the casualty numbers affected by the introduction of this proposal may not be as significant as those caused by, say, driving under the influence of alcohol and/or drugs, it still has the real potential to reduce the number of and, more so, the severity of casualties on our roads.

Responses to Question 3 – others suggestions to improve road safety

- 6.23 The Department welcomes the suggestions provided for other ways to improve road safety and, in particular, motorcycling safety. Some of these suggestions may be useful as the Department is taking forward a Motorcycle Safety Action Plan in partnership with key stakeholders including statutory bodies and groups representing the motorcycle community. In developing the motorcycle safety action plan, officials are looking at how we can help make our roads safer for motorcyclists.

Responses to Question 4 – impact on industry

- 6.24 The Department notes the comments from stakeholders that this will impact negatively on industry as if this proposal is introduced, it would discourage people from using motor trikes. The Department recognises from the responses received, that many who ride motor trikes prefer the choice of not wearing a helmet. However, the Department considers that it has a responsibility to keep all motor trike riders and passengers as safe as possible when riding on the roads in Northern Ireland. It is this same rationalisation that requires the wearing of helmets on

motorcycles and will be on quads. The Department hopes by introducing this safety measure that it will not dissuade riders from using these vehicles on our roads in the future.

Responses to Question 5 – extend requirement to disabled riders

6.25 The Department has considered whether or not to extend this measure to disabled riders. Under Article 27 of the Road Traffic (Northern Ireland) Order 1995, there is an exemption not to wear a helmet when on a motorcycle provided to any follower of the Sikh religion while he is wearing a turban. There are currently no provisions to exempt the wearing of a helmet on medical grounds. Given that there are only approximately 260 motor trikes on our roads and that this issue has not been raised previously for riders of two-wheeled motorcycles and motor quadricycles, it has been decided not to provide an exemption on medical grounds at this time. However, the Department will keep this under review.

Responses to Question 6 - definition of motor trikes in legislation

6.26 In the consultation, the Department indicated that it would draft the definition for motor tricycle as follows:

A “motor tricycle” means any motor vehicle having –

- a. 3 wheels;*
- b. an unladen weight not exceeding 450 kilograms; and*
- c. handlebars,*

and designed to be operated with the driver seated astride a seat longitudinally.

This is similar to how the motor quadricycle was defined in legislation.

6.27 Also in the consultation, the Department proposed to legislate for the mandatory wearing of helmets on trikes as follows:

Every person driving or riding a motor tricycle on a road must wear protective headgear, except when a motor tricycle:

(a) is horizontally confined by a body enclosing each person carried which also provides protection; and

(b) is fitted with a fixed roof or other rollover protection for each person carried in or on the vehicle; and

(c) has seatbelts fitted when required by the relevant regulations.

6.28 The Department has considered the consultation comments and sees merit in the responses.

6.29 The Department will retain the 450kg limit for the legal definition as it is not considered there would be wholesale manufacture or modification of motor tricycles to make them weigh over 450kg. If a motor trike does exceed 450kg, it would no longer be defined as such and may then be defined as a car. Therefore, it would have to comply with all the legislation for those vehicles.

6.30 The Department will amend the consultation definition to include the comments made about the vehicle having “three symmetrically arranged wheels”. The Department does not consider there is a need to specify the axis of symmetry. A motor trike already can have two wheels at the front or vice versa.

6.31 The new definition for motor tricycle will be as follows:

A “motor tricycle” means any motor vehicle having –

- a. 3 symmetrically arranged wheels;
- b. an unladen weight not exceeding 450 kilograms; and
- c. handlebars,

and designed to be operated with the driver seated astride a seat longitudinally.

6.32 The Department considers there should be an exemption for those vehicles which have seatbelts, roll over protection and side protection in legislation and the proposed text in paragraph 6.27 will also be added to the legal definition.

7. Way Forward

- 7.1 There was majority opposition from respondents for the proposal to make to changes to legislation to mandate the wearing of helmets on motor trikes.
- 7.2 However, after much consideration and discussion, it has been decided that the Department will proceed with the implementation of this policy proposal into legislation. The requirement will be applicable to all riders of motor trikes in Northern Ireland. The only exemption not to wear a helmet when on a motorcycle will be provided to any follower of the Sikh religion while he is wearing a turban. The Department will keep the proposal to provide an exemption on medical grounds under review.
- 7.3 The legal definition for motor trikes will be that as detailed in paragraph 6.27 and 6.31.
- 7.4 The Department will implement this policy proposal into legislation at the same time as it is implemented for quads. There are currently no primary legislative powers to require the wearing of helmets on quads and the Department is introducing this through a clause in the Road Traffic Amendment (RTA) Bill which has gone through the primary legislative process in the NI Assembly.
- 7.5 Once the RTA Bill has been enacted, the Department will proceed with introducing this requirement in subordinate legislation for both motor trikes and quads.