



Traffic policing and other enforcement agencies

THIS BRIEFING COVERS

Role of the police, roads policing benefits, cuts, national/local priorities, charging, training, investigation, victim support, other agencies (HSE, Traffic Commissioners); incident reporting systems.

HEADLINE MESSAGES

- A commitment from the police to tackle road crime plays a crucial role in protecting the public from bad driving.
- The more traffic police there are and the more resources they have, the stronger the chance that bad drivers will be caught and brought to justice.
- Well-trained traffic officers who investigate road collisions involving cyclists and pedestrians thoroughly can make all the difference to the likelihood of a successful prosecution. This, backed up by well-designed incident reporting systems and appropriate charging decisions, acts as a powerful deterrent against bad driving.
- The Health and Safety Executive (HSE) and other agencies with road safety responsibilities also have an important part to play in enforcing road traffic law, and are as reliant as the police on adequate resourcing and good training.

KEY FACTS

- Fear of detection and prosecution is a highly effective deterrent: a report from ETSC (European Transport Safety Council) concluded that drivers are more willing to comply with the rules if they feel that they are likely to be caught and punished if they don't, and thus recommends that police controls should be sufficiently publicised, regular and long-term, unpredictable and difficult to avoid, and combine both highly visible and less visible activities.
- In France, a 'zero tolerance' policy over speeding offences, and substantial investment in safety cameras and road traffic policing, saw road deaths drop by 43% (2001–2007). 45% of French drivers have said that 'fear of punishment' made them change their behaviour.
- Fewer breath tests lead to more drink-drive casualties and more people driving over the limit.
- In England and Wales (outside the Metropolitan Police area), roads police levels dropped by around 48% between 2004/5 and 2015/16. This drop is significantly higher than that seen in the police officer workforce as a whole.
- The overall number of 'dangerous driving' offences recorded by the police in England and Wales dropped by 47% from April to March 2002/03 and April to March 2015/16. This is unlikely to represent an improvement in driving standards given that the number of offences which the police are bound to record (e.g. causing death by driving offences) have risen.
- Evidence suggests that offence history and being at fault in a road crash is clearly linked.
- The Health and Safety Executive's role extends to work-related road travel; around a quarter of all GB road casualties involve a driver/rider who is at work at the time (or their passenger(s)).



Cycling UK VIEW

- Investing in roads policing is highly effective, not only for promoting road safety, but also in tackling other forms of crime.
- Roads policing should be prioritised by national government and included in all overarching policing strategies and plans (e.g. the *Strategic Policing Requirement* in England and Wales). This would strengthen the case for individual police forces throughout the UK and Police and Crime Commissioners (England and Wales) to give it the priority it deserves.
- Police and Crime Commissioners and local authority crime reduction/safety partnerships must prioritise speeding, dangerous driving and other road traffic offences as key issues to address.
- The police should always refer serious injury collisions up to the prosecution service for a charging decision, not just those that result in a fatality. If they do not charge or decide not to refer the case, the police should be required to justify their decision.
- The police should avoid simply sending offending drivers on speed awareness or other remedial courses instead of prosecuting them. Such courses should be available as court sanctions, but not as an alternative to prosecution.
- The police should be trained so that they understand the practical and legal issues facing cyclists and other non-motorised users.
- Wherever possible, the police should respond to any reported collision involving a cyclist or pedestrian by:
 - Attending the scene, taking statements and gathering evidence from witnesses and any camera footage;
 - Investigating incidents that result in very serious injury as thoroughly as those that result in death. As such, the title of the College of Policing's *Investigating Road Deaths* manual should be changed, e.g. to *Investigating Road Crashes*, to reflect the fact that it covers serious as well as fatal injuries;
 - Investigating reports of seriously bad or aggressive driving even when no injury occurs and allocating sufficient resources to do so. After all, such drivers are often involved in other criminal activity;
 - Investigating and where possible charging motorists who leave the scene with 'failing to stop after an accident'.
- The police should facilitate collision and 'near miss' reporting (e.g. via online systems)
- The victims of road crashes involving unlawful driving should be entitled to the same support services that other victims of crime receive.
- The Health and Safety Executive (HSE) should take a more proactive line over work-related road safety and should receive adequate funds to do so.





BACKGROUND INFORMATION

1. Role of the police: investigations and prosecution

England & Wales: The police are responsible for investigating allegations of crime and gathering evidence. They refer selected cases to the Crown Prosecution Service (CPS - www.cps.gov.uk).

The circumstances in which the police are authorised to make a charging decision themselves, or must refer the case to the CPS, are set out in the CPS's *The Director's Guidance on Charging 2013* – fifth edition, May 2013 (revised arrangements).¹

Scotland: the Scottish prosecution service is the Crown Office and Procurator Fiscal (COPFS - www.copfs.gov.uk). Its relationship with the police is very similar to that of the CPS (see above). In theory, however, the position of the eleven Procurators Fiscal (PF) is unique because they are responsible for both investigating and prosecuting serious crimes. PFs, who are based throughout Scotland, also have the power to direct the police in their investigations, but in lesser cases, the police usually complete their enquiries before involving PFs. With respect to road fatalities, the police are not allowed to charge until instructed by the PF.

Northern Ireland: in N Ireland, the police investigate crimes while the Public Prosecution Service for Northern Ireland (PPSNI - www.ppsni.gov.uk) is responsible for public prosecutions of people charged with criminal offences. Headed by the Director of Public Prosecutions for N Ireland, its role is similar to that of the CPS and COPFS: it advises the police on possible prosecutions, authorises the charge, reviews cases submitted by the police and prepares for and presents cases in court.

2. Traffic policing: benefits, officer strength

Cycling UK view:

- Investing in roads policing is highly effective, not only for promoting road safety, but also in tackling other crime.

a. The road safety benefits of traffic policing:

Less bad driving: fear of detection and prosecution is a highly effective deterrent: a report from ETSC (European Transport Safety Council) concluded that drivers are more willing to comply with the rules if they feel that they are likely to be caught and punished if they don't, and thus recommends that police controls should be sufficiently publicised, regular and long-term, unpredictable and difficult to avoid, and combine both highly visible and less visible activities.²

A greater chance of successful prosecutions for bad driving: more resources would improve the capacity of police forces to detect and investigate acts of dangerous driving. This would improve the prospects of successful prosecutions.

More reporting & follow-up: with more resources, the capacity of the police to follow up reports of cyclists' collisions would improve. This, in turn, would help make cyclists more confident about logging incidents in the first place. Some forces not only offer online reporting systems, but actively follow them up by, for example, visiting the address of the vehicle's registered keeper, issuing warnings or referring the matter to the DVLA (see 'GOOD PRACTICE' below).

More data on collisions and 'near misses': more and better reporting would in turn lead to more comprehensive data on the causes of road collisions. This would help inform local and national road safety policies.

More 20 mph: many police forces are reluctant to support widespread 20 mph limits because they feel they don't have the capacity to enforce them,³ particularly if schemes are not 'self-enforcing' (i.e. by costly physical traffic calming measures that some councils can't or won't pay for).

More crime detection: it is in the police's own interest to strengthen traffic policing because it would probably help them catch offenders committing non-motoring crimes. Research backs this up: a 1998 study of illegally parked cars found that 1 in 3 were connected to other offences (drugs, burglary etc.)⁴; and a 2010 report found a clear link between offence history and being at fault in a road crash.⁵

- **Examples of the benefits:**

- In 2001, France had one of the worst road safety records in Europe, but after adopting a 'zero tolerance' policy over speeding offences and substantial investment in safety cameras and road traffic policing, deaths dropped by 43% (2001–2007).⁶ One survey (2004) found that 45% of French drivers said that 'fear of punishment' ('la peur de la sanction') had made them change their behaviour, while 37% said 'better awareness of risk' ('la prise de conscience') had done the same.⁷
- A TRL report on the effectiveness of roads policing, commissioned by Thames Valley Police and Hampshire Constabulary, advised the forces that: *"Increased levels of roads policing can reduce traffic violations and road casualties."*⁸
- A study of an operation that increased the visible presence of police on a six mile stretch of the A23 in South London in 2008 found that: *"Vehicle speeds reduced systematically during the operation along the route and in surrounding areas, and some effects remained at least two weeks after the operation had finished."*⁹
- In Victoria, Australia, an Arrive Alive! strategy led to significant decreases in average speeds and a 16% reduction in fatalities. A lower degree of tolerance for speeding offences and an emphasis on enforcement were major tactics.¹⁰
- Research for the former Scottish Office found that: *"consideration of the costs and benefits of complying with the law"* affected how frequently motorists engaged in anti-social behaviour such as excessive speeding.¹¹
- *New Directions in Speed Management*, a government report from 2000, noted that the introduction of 30kph speed limits in Graz, Austria was met with strong public approval, yet speeds crept back to former levels when police enforcement was relaxed.¹²
- Police Scotland report that: *"Intelligence-led policing of the strategic road network, such as the M74 crossborder corridor, has led to the successful seizure of large quantities of cash, illicit drugs and other illegal goods ..."*¹³



b. Cuts to roads police numbers

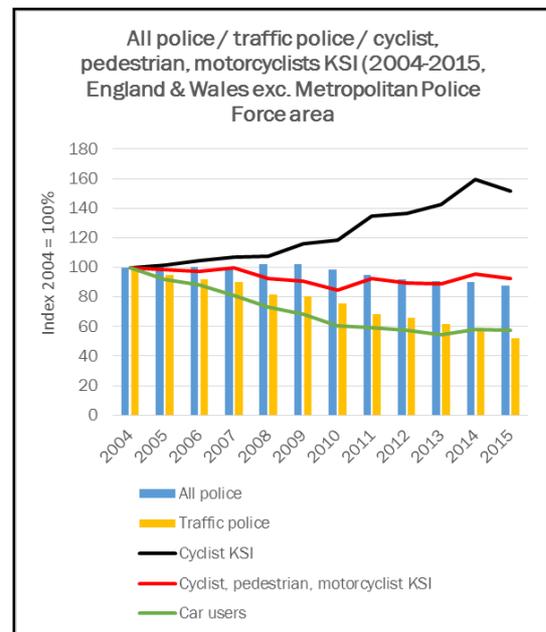
• England & Wales

Despite the above-mentioned evidence for their effectiveness, roads police levels dropped by around 48% between 2004/5 and 2015/16 outside the Metropolitan Police area, down from well over 6,500 to under 3,500.¹⁴ This drop is significantly higher than the c12% drop seen in the police officer workforce as a whole over this period.

The proportion of officers allocated to a roads policing role varies considerably from force to force. Overall, roads police represented about 4% of the total police officer workforce in March 2016, but less than 1% of the forces in West Yorkshire, Lincolnshire, Northamptonshire and Nottinghamshire, compared to around 8% in Warwickshire and West Mercia.¹⁵

Police strength and road casualties: how many people are killed or seriously injured (KSI) each year on the roads is influenced by a variety of factors (e.g. traffic volume, the weather, advances in vehicle safety technology and medical care etc.). Roads police strength is almost undoubtedly a factor too, given the evidence supporting its key role as an effective deterrent against bad driving (see previous section).

The chart on the right tracks traffic police numbers against police strength as a whole (outside the Met force area), and against the number of reported KSI casualties. While KSIs amongst car occupants have dropped significantly, KSIs amongst vulnerable road users (i.e. cyclists, pedestrians and motorcyclists) have hardly changed and, for cyclists alone, numbers have increased significantly. The risk of cycling has also grown: in 2005, there were 875 KSI per billion miles cycled, and 1,025 in 2015 (up from 1,014 in 2014). See *endnote for data sources*.¹⁶



Police strength and road crime detection: in 2015/16, the police recorded just over half (53%) of the number of ‘dangerous driving’ offences than they did in 2002/03 - 4,050 as opposed to 7,624. (While the figure for 2015/16 was a 24% increase on 2014/15 (3,254), it remains to be seen if this is the start of a more encouraging trend).¹⁷

The fact that the police are now recording fewer dangerous driving offences (whatever the outcome) than they did ten years ago is unlikely to be a reflection of better driving standards. They have little choice but to record offences of causing death by driving (and since 2013, causing serious injury by dangerous driving) and these figures have been going up: in 2015/16 (April to March), they recorded 36% more of these offences than they did in 2008/09 (595 as opposed to 437).¹⁸ This strongly suggests that the police do not have the resources to tackle bad driving effectively, and only prioritise what are (in their view) the most serious cases because they have to.

“As the number of traffic police has fallen, so too has the number of road traffic offences detected. However, the number of ‘causing death’ offences, which will always be recorded where they occur, has not fallen. This is significant as this suggests that the reduction in overall offences that are recorded does not represent a reduction in offences actually being committed.” House of Commons Transport Committee, *Road traffic law enforcement report*, 7 March 2016.
www.publications.parliament.uk/pa/cm201516/cmselect/cmtrans/518/518.pdf

- **Scotland**

At the beginning of 2016, there were 17,317 full-time equivalent police officers in Scotland, an increase of 1,083 from the beginning of 2007 (+6.7%).¹⁹ According to Police Scotland, 636 officers were assigned to roads policing in March 2016, 26 more than the year before (+4%).²⁰ This means that around 4% of the total officer workforce exercises roads policing duties, a similar figure to that of England and Wales.

While the number of dangerous *and* careless driving offences recorded by the police fell by c25% between 2004/05 and 2010/11, the figure has risen in most years since then. In 2015/16, the police recorded 12,057 dangerous and careless driving offences, as opposed to 9,839 in 2010/11, a rise of 22.5%.²¹ Total KSIs amongst cyclists, pedestrians and motorcyclists have been dropping for years, and in 2015 stood at 27% less than in 2004. However, cyclist KSI alone have risen by 33% (127 in 2004 up to 169 in 2015).

Road safety and road crime are priorities in Scotland's *Annual Police Plan 2016/17* (see 3b below), but whether this means that more officers will be allocated to roads policing remains to be seen.

3. National and local priorities

Cycling UK view:

- Roads policing should be prioritised by national government and included in all overarching policing strategies/plans (e.g. the *Strategic Policing Requirement* in England & Wales). This would strengthen the case for individual police forces throughout the UK and Police & Crime Commissioners (PCCs, England & Wales) to give it the priority it deserves.
- PCCs and local authority crime reduction/safety partnerships must identify dangerous, careless and inconsiderate driving and excess speed and as key issues to address.

a. Background

Overall police strength is largely a national matter and, while individual police forces decide how to allocate their local resources, they have to take account of the stated priorities of central government.

England and Wales: under the *Police Reform and Social Responsibility Act 2011*, the Home Secretary's view of current national threats and the policing capabilities appropriate to counter them is set out in the *Strategic Policing Requirement*.²² While Chief Constables and Police and Crime Commissioners must have regard to this in exercising their functions, policing is a local issue below this strategic level because the Government believes it needs to be responsive to local concerns.

Scotland: following reforms made under the *Police and Fire Reform (Scotland) Act 2012*, there is now a single police service for Scotland (Police Scotland), along with 13 local policing divisions each headed by a Local Police Commander. Police Scotland's priorities are set out in its *Annual Police Plan* and are aligned to the Scottish Government's and the Scottish Police Authority's strategic objectives.
<http://www.scotland.police.uk/about-us/>

"Improvements in traffic law enforcement should be part of an integrated road safety policy and have been shown to lead to rapid reductions in deaths and injuries when applying best practice."

European Transport Safety Council (ETSC): *How traffic law enforcement can contribute to safer roads*. 2016.

<http://etsc.eu/how-traffic-law-enforcement-can-contribute-to-safer-roads-pin-flash-31/>

b. The importance of roads policing in national strategies

The *Strategic Policing Requirement* for England and Wales focuses on terrorism, organised crime, public disorder etc., but does not mention roads policing, so decisions about how much priority to give it are made locally.

In contrast, road safety and road crime are priorities in Scotland's *Annual Police Plan 2016/17*. The objective is to: reduce road casualties in collaboration with partners (through initiatives focusing on bad driving offences, for example etc.); influence driver and road user behaviour (through vehicle stops, engagement with drivers and behavioural research etc.); and detect and deter all types of criminality on Scotland's roads (e.g. by targeting "antisocial driving behaviour which can blight our local communities", through intelligence-led policing of the strategic road network).²³

Cycling UK believes that roads policing should never be omitted from the priorities set by national governments, given that:

- Many more people are killed or seriously injured on the roads - nearly 24,000 in 2015²⁴ - than by public disorder;
- Roads policing is highly effective not only for improving road safety, but also for detecting other forms of crime (see section 2a above);
- In order to be effective both as a road safety tool and as a means to detect other crimes, roads police need centrally co-ordinated systems (e.g. for automatic number plate recognition);
- Road crash investigation is a specialist skill and needs to be supported at national level.
- Victims of road crime deserve national commitment - not a 'post-code lottery' - both in terms of the quality of investigations, and of the victims support services they receive.

Road safety strategy: Cycling UK shares concerns that the lack of casualty-related targets in the Government's *Road Safety Strategy* has weakened the priority that individual forces give to roads policing, a view shared by Chief Police Officers. In their evidence to the House of Commons Transport Committee's road safety inquiry in 2012, ACPO (the body representing the officers at the time) said: "*The reality is that there is a whole range of pressures on policing as there is for other public agencies about what the specific priority is there and then. [...] Home Affairs issues the strategic policing requirement, but it does not include road safety and KSIs as part of it. When chief constables are looking at how they manage their resources and deliver in terms of safety, they will not necessarily look at roads policing because there are no national targets.*"²⁵

- For more on national road safety policy, see Cycling UK's *Road Safety Cycling: Overview* www.cyclinguk.org/campaigning/views-and-briefings/road-safety-and-cycling-overview

c. Local priorities

As mentioned above, national decisions about road safety policy and overall police numbers affect how the police decide to allocate their resources at local level. It is important, however, that local decision-makers do not neglect roads policing when their resources are stretched.

Police and Crime Commissioners (England & Wales, not London): under the *Police Reform & Social Responsibility Act 2011*, local Police & Crime Commissioners (PCCs) are charged with securing efficient and effective policing of a police area. PCCs, first elected by the public in November 2012, replaced police authorities (local panels) and are responsible amongst other things for representing all those who live and work in their area and identifying their needs. Priorities based on this are set out in a local five-year *Police and Crime Plan* which the PCC agrees with the Chief Constable, who then deploys resources accordingly, whilst retaining operational independence. Arguably, road safety should be amongst every

PPC's local priorities, given how important tackling speeding and anti-social driving usually are for a community's sense of safety and security.

Local authority crime reduction/safety partnerships: equally, all partnerships between local authorities and the police (e.g. Crime & Disorder Reduction Partnerships / Community Safety Partnerships²⁶), should take bad driving as seriously as any other offence when formulating and implementing strategies to tackle crime.

4. Police charging decisions, training, investigation and victim support

Cycling UK view:

- The police should always refer serious injury collisions up to the prosecution service for a charging decision, not just those that result in fatality. If they do not charge or decide not to refer the case, the police should be required to justify their decision.
- The police should avoid simply sending offending drivers on speed awareness or other remedial courses instead of prosecuting them. Such courses should be available as court sanctions, but not as an alternative to prosecution.

a. Charging decisions

In theory, the police in England and Wales have to refer all fatal road traffic cases to the CPS for a charging decision.²⁷ However, they are authorised to make a charging decision in the case of:

- any 'summary only'²⁸ offence (which includes, for example, careless driving, drink-driving, driving whilst disqualified, without a licence or without insurance); and
- "any either way offence anticipated as a guilty plea and suitable for sentence in a magistrates' court", which could, potentially, include cases of dangerous driving.²⁹

By implication, therefore, if the police believe that the non-fatal driving was merely 'careless' or not culpable at all, they are not required to report the case to the CPS, even for very serious injuries. The extent of this problem is unclear, but anecdotal evidence suggests that the police filter out many, if not the majority of reported collisions, resulting in little or no action against the driver, and hence no criminal record. The driver may simply be sent on a 'driver improvement scheme' or a 'speed awareness course' - the most common outcome, in fact (see below).

Each police force is independent, of course, and some take a tougher approach than others, but a widespread failure to take further action in so many cases, means that too few incidents of unlawful driving are effectively penalised and prosecution is weakened as a deterrent. Moreover, the lack of a resulting criminal record means that repeat offenders can easily go undetected.

In 2016, West Midlands Police launched an intelligence-led enforcement operation against drivers who overtake cyclists too closely.

Officers ride their bikes in the area and, whenever they experience a close pass, they radio the driver's details to in-car colleagues who intercept them. The drivers are offered 'road-side educational input', while repeat offenders or anyone who's driven dangerously close may be charged and prosecuted. Even if a driver is intercepted on an outlying route, the knowledge that they could be overtaking an undercover police officer riding a bike at any point may well improve their behaviour throughout their journey, including at danger-spots like junctions.

Cycling UK fully supports such initiatives, and encourages other forces to follow suit.

www.cyclinguk.org/press-release/2016-09-16/cycling-uk-hails-west-midlands-police-best-cyclist-road-safety-initiative

Accountability presents another problem. When a driver is not charged, the injured victim often remains unclear about who took the decision, let alone why. This makes challenges particularly difficult (see also section 6 below). There are, in fact, no data available to explain how, why or by whom such decisions are made, either for individual police forces, CPS areas or for the system as a whole.

Cycling UK believes, therefore, that police and prosecutors should be required to justify their charging decisions, and data about these decisions should be systematically collected in the interests of transparency and accountability. Such information could be used to help identify scope for improvements, e.g. the need for more resources, better training on investigation procedures to ensure that there is enough evidence to make a case worth referring to the CPS, and best practice reporting systems etc.

- For more on the CPS guidelines on charging, see Cycling UK's *Prosecutors and the Courts* (p7-8) www.cyclinguk.org/campaigning/views-and-briefings/prosecutors-and-courts

Note: as mentioned, in Scotland Procurators Fiscal have both an investigative and prosecuting role. They work closely with the police and can direct them over their investigations, especially in serious cases. Also, where a PF decides to take no criminal proceedings or to accept an adjusted plea of guilty, they will explain why if the victim asks them to do so.

National Driver Offender Retraining Scheme (NDORS): police throughout the UK may decide to send an offending driver on a remedial training course (e.g. on speed awareness), as an alternative to prosecuting them. Cycling UK believes that such courses should not be a means to avoid prosecution, and that they should be a sanction that courts - not just the police - can impose on offenders.

Local Traffic Courts: it remains to be seen whether the establishment of dedicated local 'Traffic Courts'³⁰ to deal more expeditiously with low-level offences (e.g. speeding, traffic-light and documentation offences) will make the police more willing to charge offending drivers; and/or whether it will make them pursue even serious cases at too low a level simply because it is more likely that the offender will be convicted and penalised.

5. Training, investigation and reporting systems

Cycling UK view:

- The police should be trained so that they understand the practical and legal issues facing cyclists and other non-motorised users.
- Wherever possible, the police should respond to any reported collision involving a cyclist or pedestrian by:
 - Attending the scene, taking statements and gathering evidence from witnesses and camera footage;
 - Investigating incidents that result in very serious injury as thoroughly as those that result in death. As such, the title of the College of Policing's *Investigating Road Deaths* manual should be changed, e.g. to *Investigating Road Crashes*, to reflect the fact that it covers serious as well as fatal injuries;
 - Investigating reports of seriously bad or aggressive driving even when no injury occurs and allocating sufficient resources to do so - such drivers are often involved in other criminal activity;
 - Investigating and where possible charging motorists who leave the scene with 'failing to stop after an accident'.
- The police should facilitate collision and 'near miss' reporting (e.g. via online systems).

A study commissioned by Cycling UK analysed a number of incidents in which cyclists were hurt. It suggested that, in a significant number of cases, the police failed to gather sufficient evidence and/or take the matter as seriously as the cyclist felt it warranted.³¹

Moreover, there is less need nowadays for the police to rely so much on witness statements. Footage from CCTV or from helmet/dash cameras may be available too, along with physical evidence from the road site. Nevertheless, some officers may rely so heavily on witnesses and their statements that they fail to pursue a case in the absence of them, despite the strength of evidence from other sources.

The quality of the evidence gathered by the police may be crucial for the chances of a successful prosecution, but it may well prove to be a deciding factor in whether the case is prosecuted in the first place. The CPS states: *“Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. [...] A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.”*³²

Police attendance at the scene, timely and thorough evidence gathering (e.g. witness statements, interviewing the driver as a matter of urgency etc.), and proactive follow-up are therefore vital to ensure that prosecutions do not fail for lack of good evidence, as happens too often at present. This matters not only to the victim(s), but it also has repercussions for other road users and national road safety policy. Better quality, non-prejudicial investigations will:

- Improve the prospects of successful prosecutions
- Enable lessons to be learnt, thereby reducing the risk of similar incidents happening
- Provide robust data for the development of local and national road safety policy and strategies
- Help address the problems caused by ‘victim blaming’ from the outset.

For this to happen, the police need high quality, standardised collision investigation training. This should include advice on the needs and problems of cyclists and other non-motorised road users. The College of Policing, the professional body of the police, is the organisation best placed to develop and offer such training (www.college.police.uk/).

Online reporting systems help cyclists file incident reports and become a useful tool for the police to crack-down on bad driving (see GOOD PRACTICE below for more).

‘Near miss’ reports: the police should also pursue reports of ‘near misses’ as seriously as is practicable. This helps compile information about bad drivers, whether or not they’ve been involved in a collision; and identify locations that would benefit from remedial attention from the local highway authority.

Investigation manual: The College of Policing’s *Investigating Road Deaths* is the professional guidance that the police use in the UK.³³ Despite its title, the manual is also intended to cover ‘life changing injuries’, but Cycling UK is concerned that very serious injuries – and even fatal cases – are by no means always investigated to the set standards. As mentioned, inadequate investigation leads to abandoned cases and failed prosecutions. Such failures are all the more poignant when the police assume that a collision will not prove fatal (and therefore decide not to follow the guidance), but where a victim subsequently dies.

Changing the name of the guidance to ‘Investigating Road Crashes’ should help ensure that it is always followed for non-fatal injuries.



“The vulnerability of cyclists provides a particular road enforcement challenge. A “near miss” involving a cyclist can be close to a fatal accident, and “near miss” reports involving cyclists should be considered in that light. It is clear that there is a problem with the actual and subjective safety of the roads for cyclists, as well as the perception of the likely result of reporting offences to the police. The level to which cyclists feel unsafe on the roads due to a perceived failure to enforce traffic law is at odds with the Government’s aim to promote cycling, and must be addressed.

“We recommend that the Government’s strategy should not only promote cycle use, but must do so whilst reducing the proportion of people who consider that it is too dangerous for them to cycle on the roads.”

“There appears to be substantial feeling that collisions or near misses involving cyclists are sometimes not effectively handled. More generally, there is great variation between police forces in how a road user is able to report near misses, and the development of best practice would be of benefit to all road users. *We recommend that the Home Office commission research on how collisions or near misses are handled by the police, particularly how this varies between each force area, and how this impacts the proportion of people who believe it is too dangerous to cycle on the roads.”*

House of Commons Transport Committee: *Road traffic law enforcement*. Report on the Committee’s inquiry, at which Cycling UK gave evidence. March 2016.
<http://www.publications.parliament.uk/pa/cm201516/cmselect/cmtrans/518/518.pdf>

6. Victims’ rights

Cycling UK view: the victims of road crashes involving unlawful driving should be entitled to the same support services that other victims of crime receive.

In the past, many victims of road crashes or their bereaved families were not entitled to the same support as the victims of other crimes. This meant that lack of information about court dates or key charging decisions, for example, often made it difficult for them to challenge anything they believed to be contentious or legally incorrect (e.g. a decision not to prosecute, or to downgrade the prosecution from a ‘dangerous’ to a ‘careless’ driving offence).

However, following pressure from Cycling UK, RoadPeace and others, the Ministry of Justice made changes to the *Victims’ Code* (England and Wales) at the end of 2015, which entitle victims to information about prosecution decisions, case progression and support services.³⁴ Also, victims who report a crime are entitled to receive a written acknowledgement from the police stating the basic elements of the crime.

The Code has been extended to other prosecuting organisations including the Health and Safety Executive, a move that is crucially important for victims injured by drivers in the course of their employment (25% of all road casualties). Cycling UK believes that the Code should also apply to Traffic Commissioners and coroners. We also believe that the *Victims’ Right to Review*, which enables victims to request a review of a decision not to prosecute, to all offences and not just ‘serious offences’.



7. The Health and Safety Executive (HSE)

Cycling UK view: The Health and Safety Executive should take a more proactive line over work-related road safety and should receive adequate funds to do so.

According to DfT figures, around a quarter of all road casualties in Great Britain involve a driver/rider who is driving as part of their work (i.e. not commuting), or their passenger(s).³⁵

The Health and Safety at Work Act 1974 requires employers to ensure, so far as is reasonably practicable, the health and safety of all employees while at work. This includes when they are driving. Employers must also ensure that others are not put at risk by work-related driving activities. Managing a driving for work policy is a legal requirement.

The HSE produces advice and is empowered to enforce health and safety law as appropriate through warnings, notices and formal cautions in England and Wales. In Scotland they may prosecute (or report to the Procurator Fiscal with a view to prosecution).

Cycling UK believes that the HSE should make their road safety role a priority, pursue it proactively and be given sufficient resources to do so. Its policies and advice to employers should make it clear that they need to consider not only the road risks faced by employees themselves, but also the dangers they may impose on other road users.

8. Traffic Commissioners

The Secretary of State for Transport appoints seven Traffic Commissioners who between them cover England, Wales and Scotland.

Working closely with the DVSA, a Traffic Commissioner's role involves:

- the licensing of the operators of heavy goods vehicles (HGVs) and of buses and coaches (public service vehicles or PSVs);
- the registration of local bus services;
- granting vocational licences and taking action against drivers of HGVs and PSVs.

A Traffic Commissioner's remit gives them the potential to play an important enforcement role. Fundamentally, they are regulators, but they can also take action against operators and drivers and, if necessary, call a public inquiry (hearing) at which they act in a judicial capacity.

For more see: www.gov.uk/government/collections/traffic-commissioners-publications-2

GOOD PRACTICE: Reporting systems

Bad driving is far more prevalent than the number of convictions would suggest; and few drivers are charged unless a victim has been killed or very seriously injured.

Sussex Police's Operation Crackdown - www.operationcrackdown.org: this website allows people to report various incidents of anti-social driving, e.g. careless/inconsiderate driving, using a mobile phone while driving or speeding. The police respond by writing to or visiting the house of the vehicle's registered keeper, carrying out further intelligence work, issuing a warning or referring the case to the DVLA or another agency, as appropriate.

Avon and Somerset's 'Report a cycling near miss' - www.avonandsomerset.police.uk/advice/vehicles-and-roads/cycling/report-a-cycling-near-miss/: this online reporting facility is dedicated to near misses only (i.e. it is not for cyclists to report actual collisions in which they've suffered personal injury or physical damage - another online system is available for that). It is designed to gather data for the police to use with their partner agencies to improve cycling safety within the force area.

ADVICE TO CYCLISTS



Cycling UK's Road Justice campaign offers advice, resources and an online system for cyclists and others to report crashes and near misses to us. Not only does it take the details of the incident, it also asks for information on how the police, prosecutors and courts respond. The information is helping Cycling UK campaign for changes to the way enforcement agencies crack down on bad driving and how the justice system deals with offenders.

www.roadjustice.org.uk

FURTHER READING

- *Road Traffic Offences - Guidance on Charging Offences arising from Driving Incidents* (CPS)
- www.cps.gov.uk/legal/p_to_r/road_traffic_offences_guidance_on_prosecuting_cases_of_bad_driving/ (CPS 2013)
- *Road Traffic Policy*. (PPSNI, Sept 2010).
- www.ppsni.gov.uk/Prosecution-Policy-and-Guidance--5084.html
- *Developing the role of collision investigation*. (Simon Labbett, TRL, RoadPeace conference paper, 7/4/08). Contact RoadPeace www.roadpeace.org
- *Driving at Work: Managing Work-Related Road-Safety*.
- www.hse.gov.uk/pubns/indg382.pdf

Cycling UK's series of briefings on safe drivers and vehicles (road safety overview, legal framework & sentencing, prosecutors & courts, compensation for injured cyclists). All at www.cyclinguk.org/campaignsbriefings

WEBSITES

www.roadjustice.org.uk: Cycling UK's campaign for better enforcement from the police, courts and prosecutors; plus online crash/near miss reporting system, resources and advice.

www.cyclistsdefencefund.org.uk: Cycling UK charity raising awareness of the law relating to cyclists, and helping with cyclists' legal cases.

www.roadpeace.org: charity for road crash victims. Offers advice on the legal system.

www.cps.gov.uk (England & Wales) / www.copfs.gov.uk (Scotland): www.ppsni.gov.uk (Northern Ireland): prosecution services

www.college.police.uk: The College of Policing

www.hse.gov.uk: Health and Safety Agency

www.drivingforbetterbusiness.com/: explains employers' driving for work duties

¹ CPS. *The Director's Guidance On Charging 2013. 5th edition, May 2013 (revised arrangements). Guidance to Police Officers and Crown Prosecutors Issued by the Director of Public Prosecution under S37A of the Police and Criminal Evidence Act 1984.* http://www.cps.gov.uk/publications/directors_guidance/dpp_guidance_5.html#a03

² ETSC. *How Traffic Law Enforcement can Contribute to Safer Roads*. Pin Flash Report 31. June 2016. <http://etsc.eu/how-traffic-law-enforcement-can-contribute-to-safer-roads-pin-flash-31/>

³ The Transport Select Committee's report on its inquiry into road safety (2012) said in its section on 20 mph: "In particular, additional police resources may be required to enforce lower speed limits. We heard of the difficulty in prioritising resources under conditions of broader police cuts and that policing 20 mph zones is 'just another drain on the resources'. ACPO told us that 'inevitably, as pressure is applied to police resources, as anywhere else, some decisions may be taken as to what effort and energy resources will be put into dealing with road safety and making sure that that is dealt with on a threat and risk

basis.' ACPO advises that 20 mph zones should be instituted only in areas where other measures had been taken to make them largely self-policing because if 'it does not feel or look like it should be a 20 mph limit, then the vast majority of drivers will not self-police.'

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmtran/506/506.pdf> (p27).

⁴ Chenery S, Henshaw C, Pease K. *Illegal Parking in Disabled Bays: A Means of Offender Targeting*. 1999. Home Office, London. Cited in: *Essential Evidence on a Page* by Dr Adrian Davis. No. 99. Feb 2013. www.travelwest.info/evidence

⁵ Dodson E, Hill J. *Linking Offence Histories to Accidents Using OTS Data*. 2010. VSRC, Loughborough.

<https://dspace.lboro.ac.uk/dspace-jspui/bitstream/2134/9171/2/luel5730-ots-offence-histories.pdf>. Cited in: *Essential Evidence on a Page* by Dr Adrian Davis. No. 99. Feb 2013. www.travelwest.info/evidence

⁶ ETSC. *Countdown to 2010: Only two more years to act!* 2nd Road Safety PIN Report. 2008. www.etsc.eu

⁷ La Prévention Routière/Gatard. *Comportement des Français au Volant: en 5 ans, ce qui a change*. April 2004.

⁸ TRL. *The Effectiveness of Roads Policing*. 2015. <http://www.trl.co.uk/reports-publications/report/?reportid=6997>

⁹ Walter L (et al). *The effects of increased police enforcement along a route in London*. Published in *Accident Analysis and Prevention*. 2011. <http://www.sciencedirect.com/science/article/pii/S0001457511000042>

¹⁰ Auditor General Victoria. *Making travel safer: Victoria's speed enforcement programme*. Victoria Auditor-General's Office, Melbourne, 2006. <http://www.audit.vic.gov.au/publications/2006/20060720-Speed-Enforcement-Program.pdf>

¹¹ Scottish Office. *The deterrent effect of enforcement in road safety – research findings*. Edinburgh, 1999.

www.scotland.gov.uk/Publications/1999/01/b0d42f57-77a7-4296-af24-d47af13cc953.

¹² DETR. *New directions in speed management – a review of policy* (see paragraphs 94-96). London, 2000.

¹³ Police Scotland. *Annual Police Plan 2016/17*.

<http://www.scotland.police.uk/assets/pdf/138327/150739/police-scotland-annual-police-plan-2016-17?view=Standard>

¹⁴ We have excluded the Metropolitan Police from these figures because, unlike all the other forces in the rest of England and Wales, they reported a huge rise in the number of traffic police between 2013/14 and 2014/15 (up from 264 to 1,433). However, this was largely due to a 'reclassification' of roles, rather than a genuine rise in the numbers of officers assigned to roads policing. When combined with the figures reported by other forces, this gave the misleading impression that overall road policing numbers had risen by c20% between 2013/14 and 2014/15. If the Met figure is excluded, it is clear that overall road police numbers elsewhere dropped by around c7% during this period, and c48% since 2004/5.

¹⁵ Home Office. *Police Workforce England & Wales, March 2016*. July 2016 (Table F4).

<https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2016>

¹⁶ Source of chart data: all police – England and Wales police workforce statistics

(<https://www.gov.uk/government/collections/police-workforce-england-and-wales>, Table H3); roads police 2004/5-2011/12

Parliamentary Question 7 Sept 2012 (<https://www.theyworkforyou.com/wrans/?id=2012-09-07b.119892.h>); roads police 2012/13

– 2014/15 Parliamentary Question 27 June 2016 (<https://www.theyworkforyou.com/wrans/?id=2016-06-15.40656.h&s=traffic-police>); roads police 2015/16 – England and Wales police workforce statistics (link above); road casualties –

DfT *Reported Road Casualties Great Britain* annual reports (www.gov.uk/government/collections/road-accidents-and-safety-statistics, various tables, depending on year), and Stats Wales road casualties by year and type of road user (KSI)

(<https://stats.wales.gov.wales/Catalogue/Transport/Road-Accidents/Casualties/roadcasualties-by-year-typeofroaduser>).

¹⁷ ONS. *Crime in England and Wales* Appendix table A4.

<http://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesappendixables/current>

¹⁸ ONS. *Crime in England and Wales* Appendix table A4.

www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesappendixables/current.

Includes the offences of causing death by:

¹⁹ Scottish Government. *High level summary of statistic trends* (Police Strength). Aug 2016.

<http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/TrendData>

²⁰ Response to Freedom of Information request made by Cycling UK. 26/10/2016.

²¹ Scottish Government. *Recorded Crime in Scotland, 2015-16*. Table 7. www.gov.scot/Publications/2016/09/2960/downloads

²² Home Office. *The Strategic Policing Requirement*. July 2012.

www.homeoffice.gov.uk/publications/police/pcc/strategic-policing-requirement?view=Binary; *Police Reform and Social*

Responsibility Act 2011. <http://www.legislation.gov.uk/ukpga/2011/13/contents>

²³ Police Scotland. *Annual Police Plan 2016/17*.

<http://www.scotland.police.uk/assets/pdf/138327/150739/police-scotland-annual-police-plan-2016-17?view=Standard>

²⁴ DfT. *Reported Road Casualties Great Britain 2015*. Main results. June 2016. Table 30001.

<https://www.gov.uk/government/collections/road-accidents-and-safety-statistics>

²⁵ www.publications.parliament.uk/pa/cm201213/cmselect/cmtran/506/50605.htm

²⁶ The 1998 *Crime and Disorder Act* set up partnerships in England and Wales between the police, local authorities, probation

service, health authorities, the voluntary sector, and local residents and businesses. They are responsible for devising,

implementing and reviewing a strategy to tackle the crime and disorder problems identified through wide consultation in their

locality.

²⁷ The circumstances in which the police may make a charging decision are set out in *The Director's Guidance on Charging*

2013. 5th edition, May 2013 (revised arrangements). *Guidance to Police Officers and Crown Prosecutors Issued by the*



Director of Public Prosecution under S37A of the Police and Criminal Evidence Act 1984. (CPS).

http://www.cps.gov.uk/publications/directors_guidance/dpp_guidance_5.html#a03

²⁸ 'Summary only' offences are tried in a Magistrate's Court (or possibly a 'Traffic Court'), where there is no jury.

²⁹ An 'either way' offence is triable either in a Magistrate's Court (with no jury) or in the Crown Court (with jury).

³⁰ <https://www.gov.uk/government/news/traffic-courts-up-and-running-in-twenty-nine-areas>

³¹ Spinney J. *An exploratory review of road traffic incidents involving cyclists*. 2008 (unpublished). Analysis of 53 cases showed that in all of the 16 cases where details were given, victims thought the police had failed to gather sufficient evidence.

³² CPS. *The Code for Crown Prosecutors*. January 2013. Section 4.4.

https://www.cps.gov.uk/publications/docs/code_2013_accessible_english.pdf

³³ *The Authorised Professional Practice on Investigating Road Deaths* (College of Policing) superseded ACPO's *Road Death Investigation Manual* (RDIM) in 2014

<http://www.app.college.police.uk/app-content/road-policing-2/investigating-road-deaths/>

³⁴ Ministry of Justice. *Code of Practice for Victims of Crime*. Oct 2015.

<https://consult.justice.gov.uk/digital-communications/victims-code/results/code-of-practice-for-victims-of-crime.pdf>

³⁵DfT. *Reported Road Casualties Great Britain 2015*. June/Sept. 2016.

www.gov.uk/government/collections/road-accidents-and-safety-statistics (Tables RAS 30037 & 30001)