

Driving out danger

With CTC gearing up for a campaign against bad driving, **Debra Rolfe** and **Chris Peck** outline the problem



Right and opposite: Jason@cycling-images.co.uk

Many drivers overtake dangerously close. Cyclists should be given 'at least as much room as a car', according to the Highway Code

On a Saturday morning in November 2007, CTC member Melanie Prentice cycled along a dual carriageway in North London. An experienced cyclist, she frequently used this route. At a junction, Melanie looked carefully to see if any traffic was coming, and proceeded. But a car coming the other way suddenly appeared at the junction and accelerated obviously into a right turn. Melanie was thrown into the air by the impact and hit the ground hard.

A man who saw the crash came to Melanie's aid as she lay injured in the road. Someone called an ambulance. Her leg was shattered. She was rushed to hospital for surgery to save her foot. Melanie has had five operations and hasn't worked since the crash. Last June, the driver was convicted of careless driving. He received six points on his licence and a £300 fine.

So why wasn't justice done? When the police arrived at the scene, they took statements from only two of the witnesses. The officers didn't interview the one person who saw the crash and stayed to help Melanie. A few days later, while Melanie was still in hospital, the investigating officers asked her to write her statement by hand. The Crown Prosecution Service (CPS) later dismissed this evidence because they could not read her writing. The police never investigated the driver's mobile phone record, despite the key witness saying he thought the driver was using one, and they only pursued statements from the additional witness months later on the CPS's request.

Melanie is lucky to have survived, but the injuries she received were severe, potentially permanent, and life-changing. Moreover, she feels the police failed to investigate the incident with appropriate rigour and, as a result, limited the CPS's options for prosecution – hence the driver's

relatively light sentence. The inference was that it was an accident that could happen to anyone. As one of the police officers at the scene said: 'It's just one of those things... My friend had a similar accident a few weeks ago.'

We know that cycling is a relatively safe activity overall. You are more likely to be injured in an hour of gardening than you are in an hour of cycling. There is one cyclist fatality for every 300 years of non-stop cycling. However, the risks are unevenly shared. This is still about twice as high as for a regular driver, and about 16 times higher per mile travelled. If we are to encourage more and safer cycling, a sea change in cultural attitudes is needed towards bad driving that endangers the lives and limbs of other human beings.

Bad driving in the UK

There are a number of offences that can be brought against bad drivers, outlined overleaf. Offences of dangerous and drink driving involving deaths have maximum imprisonment sentences of up to 14 years. The 2006 Road Safety Act introduced the charge of causing death by careless driving. This charge was supposed to address a previous problem in sentencing options in that people who had caused death on the roads were frequently convicted of 'careless driving', receiving only a few penalty points and a fine of a few hundred pounds. The risk is that the CPS may now use the new 'careless' charge in fatal cases that they would previously have treated as 'dangerous'. And the knock-on effect on non-fatal cases like Melanie's is that trivial sentences become even more common than they are now.

Over the past 20 years, cultural and legal intolerance towards driving while under the influence of drink or drugs has risen steadily. At the same time, convictions for careless, dangerous, and causing death by dangerous driving have fallen by 77%. There are now more people seriously injured or killed by bad drivers than there are people receiving convictions for bad driving. While there is a growing collective outrage over driving under the influence, it seems that people who maim and kill while sober are becoming ever more likely to get away with it.

"The driver was convicted of careless driving, receiving a £135 fine and four points on his licence"

Challenging the status quo

There are many ways in which the legal system can fail in its response to bad driving.

There are cases, such as Melanie's, in which the police investigate with insufficient rigour. Police failings regularly reported by road crash victims include: not attending the scene; failing to take statements from all witnesses; not investigating cases of very serious injury at the same level as they investigate deaths; and failing to charge or fully investigate motorists who have left the scene of a crash.

These shortcomings are frequently compounded by shortcomings in the CPS. Too frequently the CPS will push for lesser charges for drivers that maim and kill. These charges are easier to prove and provide a higher conviction rate.

Bruce Logan was hit from behind by a car while cycling in Edinburgh in March 2008. The car hit him with such force that its number plate was taken off. Bruce received spinal injuries. The car's insurers never disputed that the driver was at fault, and they admitted full liability and paid out for a new bike (the claim for personal damages has still to be adjusted). Yet, the Procurator Fiscal (Scotland's version of the CPS) refused to prosecute, citing a lack of evidence and advancing the argument that the crash was caused by a 'momentary lapse of attention'.

Similarly, Sacha Nauta was hit by a left-turning cement lorry in London in early 2008. CCTV footage showed that she was in full view of the driver



When drivers turn bad

What you should do.

- **Get out of danger.** If you see someone driving badly, stay as far away from them as you can. If you've been hit and you're on the ground, get out of harm's way if you're able to and shout for help.
- **Get information.** Make sure you get the other person's details, including the licence plate number, and a description of the car. If there were witnesses, get their details as well. Take photographs if you have a camera (even if it's just on your phone) and sketch diagrams showing what happened and where. If you're injured, try to find a helpful bystander to collect the information for you.
- **Report the incident to the police.** Telephone 999 and report it to the police, even if it seems trivial. It will contribute to police data about road safety for that location. If you haven't been in a collision, report this instance to the police, although some police officers may resist taking your statement.
- **Get help.** Seek medical attention if you've been injured at all. Photograph your injuries. Remember that the full extent of your injuries may not be immediately obvious.
- **Follow up.** Make sure you get the name and badge number of the attending police officer, their duty station, the police reference number, a copy of the Police Collision Investigation report, and any other supporting information. Check back to see how the prosecution is going.
- **Contact CTC's Legal Advice Scheme.** Phone on 0844 736 8452 or visit www.ctc.org.uk/legaladvice
- **If you have a precedent-setting case,** CTC may be able to help via 'The Cyclists' Defence Fund' (www.cyclistsdefencefund.org.uk). CDF is a charity that works to raise awareness of the law relating to cyclists. It has represented cyclists who have been let down by the legal system in the past, and it offers a range of useful information about cycling and the law on its website.

“When it comes to vulnerable road users’ safety, Britain is one of Europe’s worst performers”

at the time he hit her. Sacha received a broken back, a dislocated shoulder, and post-traumatic stress syndrome. The driver was tried and convicted for careless driving – receiving a paltry £135 fine and four points on his licence.

Both Bruce’s and Sacha’s experiences indicate a widespread problem in the responses of the CPS and Procurator Fiscal to bad driving. The courts too can compound the problem, with judges and magistrates sometimes assuming that the cyclist must have been at fault, or sentencing leniently in response to pleas from drivers of the hardship they will face if disqualified from driving.

Yet every time an obviously irresponsible driver gets a light sentence, or even gets off scot-free, it sends out the signal that traffic collisions are mere ‘accidents’ – unavoidable mistakes for which no one is really to blame – and that if someone gets killed or maimed as a result, it’s ‘just one of those things’. This reinforces our cultural acceptance that it’s not a particularly serious offence to drive without paying full attention to other people’s safety. While drivers can also suffer the consequences of this laissez-faire outlook, it is cyclists and pedestrians – the most vulnerable road users – who disproportionately pay the price.

Safety catch

For many years Britain had the lowest rate of death and injury on the roads of any European country and it remains one of the top three ‘safest’ countries. That ‘success’, a source of great pride amongst governments down the years, hides the fact that when it comes to vulnerable road users’ safety, Britain is one of Europe’s worst performers.

Our road environment has been designed to keep drivers safe, but in doing that may have made pedestrians and cyclists less safe. Pedestrians make up a higher number, and proportion, of UK road deaths than any of our European peers, and yet the UK also has one of the lowest levels of walking. Clearly something in the UK’s approach to road safety is going very wrong if the most vulnerable road users are most at risk.

The three pillars of road safety have traditionally been ‘education, engineering and enforcement’. Improvements are desperately needed on all three fronts but the Government has particularly been neglecting the latter. Over the last decade the numbers of traffic police have fallen by 20%, but traffic volumes have risen by 14%, meaning fewer police dealing with more and more drivers. We need greater attention paid towards enforcement of traffic law by the police and consistent punishment of offenders by public prosecutors, preferably with longer driving bans. Only when punishment is more frequent, and policing more visible and effective, will driver behaviour improve and the number of collisions fall.



What is good driving?

We asked CTC members to tell us how they would define good driving, and this is a selection of what they said:

- **Respect all other road users. Consider how you would feel if you met yourself coming the other way.**
- **Pay attention. Multi-tasking and driving do not mix.**
- **Be patient and mindful of the damage you can do, and behave accordingly.**
- **The speed limit isn’t a target or a minimum. Often it is safer to travel well below the advertised limit.**
- **Give cyclists plenty of space when overtaking and don’t accelerate aggressively while performing the manoeuvre. The Highway Code says to, ‘give motorcyclists, cyclists and horse riders at least as much room as you would a car when overtaking’.**
- **Give way when it is your turn to do so.**
- **Use indicators.**
- **Check for cyclists even after you stop the car. Look before you open your door and ask your passengers to do the same.**
- **Respect cycle lanes and advance stop lines.**
- **Regularly walk and cycle, to remind yourself how others are experiencing the roads.**

SENTENCES FOR NON-FATAL DRIVING OFFENCES

	Careless driving	Driving while unfit through drink or drugs	Wanton or furious driving (usually off-road)	Dangerous driving
Imprisonment maximum	N/A	6 months	2 years	2 years
Fine	maximum £5,000	maximum £5,000	–	Unlimited
Disqualification	Discretionary (3-9 penalty points)	Obligatory	Discretionary (3-9 penalty points)	Obligatory