

# Transport Committee cycling consultation



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STANDING UP FOR YOU

Thompsons Solicitors has been standing up for the injured and mistreated since the firm was founded by Harry Thompson in 1921. We have fought for millions of people, won countless landmark cases and secured key legal reforms. We have a network of 28 offices across the UK, including the separate legal jurisdictions of Scotland and Northern Ireland.

We are experienced in dealing with cycle accident personal injury compensation claims and also have specialist teams of solicitors based across our network of offices who are experts in dealing with claims for serious injuries.

Our case experience shows us that, almost without exception, when cyclists are killed and injured it is an avoidable accident in which a motorist has been in some way negligent.

Suggesting that if a cyclist has failed to, say, wear high visibility clothing then an accident is “their fault” is to approach the question the wrong way. Yes, there are issues about the way cyclists appear and behave, but they are (properly) dealt with by a court in terms of contributory negligence. The fact remains that cyclists are fundamentally vulnerable. They are easily maimed, mutilated, paralysed and killed. The same vulnerability does not apply to the occupants of motor vehicles.

## I. Case studies

i. Our client was injured in the middle of the day when a lorry turned left across his path without having indicated and ran him over.

He suffered extensive injuries including a fractured jaw, right elbow, wrist, pelvis and scapula and a punctured lung. He has continued memory loss and difficulty concentrating and has had to move back home with his parents for them to care for him.

ii. Our client was cycling up a country road. A driver, allegedly blinded by the sun, made no attempt to slow down (as any prudent person would do) and hit the back of the cyclist, causing them to flip backwards onto the front of the car.

The client is now bed ridden in hospital receiving constant care with severe brain injuries.

iii. A motorist pulled onto a roundabout straight into the path of our client. The client suffered significant scarring to the face.

iv. Woman cyclist killed while wearing a helmet & high visibility jacket. A car turned across, hit and killed her. The driver said he never saw her because of low-lying sun. He was prosecuted but acquitted.

v. Woman cyclist crushed against railings by a LGV who appeared not to have noticed our client, or at least thought there was sufficient space to pass her. She suffered serious leg injuries.

vi. A firefighter cycling to work was hit by a car emerging from a side road and suffered a fractured upper jaw, detached broken mandible, a fractured humerus and a shattered elbow and ulna on the left arm together with de-gloving of the upper right arm, a partially collapsed left lung and two broken vertebrae. Our client is still unable to work several years later.

vii. Our client was cycling to work with a colleague when a delivery lorry overtook them and then failed to allow appropriate distance when pulling back in, knocking both cyclists off their bicycles. The driver failed to stop. Our client suffered soft tissue injuries to his shoulder, wrist and knee.

viii. As our client passed, a vehicle pulled over on the left hand side of the road, the driver, without signalling, did a U turn in my client's path. Our client landed face down in the road, suffering extensive dental damage requiring implant and bone grafting for the rest of his life. He also sustained moderate soft tissue injuries.

ix. Our client was knocked off his bike, sustaining a minor brain injury (despite the fact that he was wearing a helmet). In addition, he sustained a fractured clavicle and a dislocated fracture to his right hand when suddenly and without warning, the Defendant attempted to change lanes into the near side lane, as our client was cycling past. Three years on and he's still suffering with the effects of the brain injury which is now impacting not only on his personal life, but also his job.

The Defendant was subsequently prosecuted by the police for driving without due care and attention, receiving four points on his licence and a £150 fine.

x. Our client was knocked off his bicycle by a juggernaut which failed to stop. As a result of the accident, he sustained multiple soft tissue injuries, lacerations requiring stitches and a fracture to his pelvis. The cyclist was wearing a helmet and high visibility clothing.

## 2. LGV driver education

As can be seen from the case examples above, lorries are a real threat to cyclists and the rest of Thompsons' caseload confirms this. LGV drivers are more likely to hit cyclists, and to inflict greater injury when they do.

We believe that gaining some experience of cycling in road conditions should form part of all LGV and PCV driving tests and form part of the Driver Certificate of Professional Competence.

Nobody should be allowed to drive an LGV or PCV unless they have experienced what it is like to ride a bike on the road in traffic.

## 3. Strict liability and culture

The Courts have recognised that, in accidents between vehicles and pedestrians, consideration should be given to different vulnerabilities of the parties.

*There are, as has often been held, two aspects to apportioning responsibility between claimant and defendant, the respective causative potency of what they have done, and their respective blameworthiness:.....The court 'has consistently imposed upon the drivers of cars a high burden to reflect the fact that the car is potentially a dangerous weapon'*  
Eagle v Chambers, Court of Appeal [2003] EWCA Civ 1107

We believe the law now needs to go further than this. Road traffic accidents in the Netherlands are governed by a law of 'strict liability', the aim of which is to protect vulnerable road users from more powerful road users. Under strict liability, the presumption in an RTA is that the more powerful road user is liable unless it can be clearly demonstrated that they are not.

We recommend strict liability is introduced in the UK in all cases involving cyclists.

Combined with an education campaign, strict liability could serve, as well as improving the legal environment, to change the prevailing culture. Currently, motorists appear alienated from the physical environment and to behave often as though they 'own the road'. Strict liability – in which cyclists have a certain priority - may go some way to help reverse this presumption.

## 4. Trouble spots

Our experience suggests that serious injuries to cyclists occur very disproportionately in particular “trouble spots”. Notorious ones in London, for instance, would include the Bow roundabout and the area around Kings Cross and St Pancras stations.

We would propose that there should be a statutory duty put on local authorities to monitor the emergence of such trouble spots and to promulgate remedies effective within a fixed time period.

## 5. New road developments

New road developments, by their nature, tend to expand car and LGV capacity, but rarely extend cycling capacity commensurately, or protect vulnerable cyclists from such extensions of car and LGV capacity.

We would propose that such duties as exist to consider cyclists when planning new road architecture should be considerably strengthened.

It should be a duty not merely to *consider* cyclists, but to *demonstrate* that their safety and amenity is enhanced in any new development by an amount at least equal to any benefits which accrue to motorists.

## 6. Better training for cyclists

Cyclists are generally not complicit in their own injury. Nevertheless, they are vulnerable, and as such they need better training than most cyclists currently receive.

Better quality training should be made more widely available at low or no cost through the intervention of local and central government.

In particular, Highway Code rules 59-82 relating to cyclists and rules 72-73 (vehicles turning) and rule 78 (large vehicles and roundabouts) need to be better understood by cyclists and motorists alike, and better enforced.

The rules are already in place. What needs to improve is understanding of them and their observation by both cyclists and motorists, and the consistency and quality of their enforcement.

Most of the above can be best achieved by better education and training.

## 7. Motorists are more likely to fail to stop

Even our small cross-section of case studies demonstrates what our wider caseload shows to be another theme: that motorists are more likely to fail to stop at the scene of an RTA if the victim is a cyclist.

This obviously has serious adverse implications for the cyclist's ability to get either redress in the civil or justice in the criminal courts.

This is a serious matter which we believe merits proper investigation by the Transport Committee and the Government.

### **For further information:**

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