



working for cycling

THE UK'S NATIONAL CYCLISTS' ORGANISATION

What to do if you are involved in a road traffic crash



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Cycling is much safer than many people think it is. Its health benefits far outweigh the risks involved.

And the more people there are cycling, the safer it gets!

You'll probably never need to go through the steps we recommend below, but here they are, just in case.

If you've been unlucky enough to be knocked off your bike, your first reactions may well be shock and possibly anger. It's not always easy to compose yourself sufficiently to think about what to do in your own best interests, let alone follow an action check-list to improve your chances of pursuing a successful case afterwards.

If you're hurt, this problem will be even worse. If you are incapacitated, it goes without saying that you'll have to rely on police and medical reports.

BUT, it still makes sense to pre-read our recommended steps - NOW! Some you'll need to take at the scene; others are more of a follow-up.

CTC has produced this advice as part of our **Stop SMIDSY** ('sorry, mate I didn't see you') campaign. If you have a crash/near miss to report, then go to www.stop-smidsy.org.uk. This will help us gather evidence to campaign for the police and the legal system to do a better job of tackling bad driving.





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FIRST TIP! Always carry some means of taking notes/photographs when you're out cycling! Remember that you can take photos with a mobile phone, so be prepared and familiarise yourself with its functions.



WWW.STOP-SMIDSY.ORG.UK

MINOR INCIDENTS

Try not to dismiss an incident just because it seems too trivial to bother about at the time. For one thing, whatever happened to you could happen to someone else, but with more serious consequences. For another, reporting problems helps the police build up a dossier on, for example, a car that keeps putting other road users at risk. So:

- Note down the registration number and other details of any offending motor vehicle.
- Take the details of the driver.
- Note the time, date and location (take photos if you can).
- If you feel it won't put you or anyone else at risk, speak to the driver to explain how and why you found his/her driving behaviour unacceptable. Be polite and informative. If you're sure about the law and its penalties, quote them, but don't make things up – it'll only discredit you!
- In the case of a professional/commercial driver, check out their company's website later on. They may have a facility allowing you to report instances of sub-standard driving by their staff. Otherwise, track the company down and make a complaint by phone. Ask them to take action and let you know what they've done.
- Report the incident to the police either at a police station, or by ringing them up. Be clear, don't waste their time and make sure they've accurately recorded your story. Note when you spoke to them and any reference numbers they allocate.
- Go to www.stop-smidsy.org.uk to report the incident through CTC's online system



WWW.STOP-SMIDSY.ORG.UK

MORE SERIOUS INCIDENTS

Follow these steps, not necessarily in this order, except for the first one:

- **Safety first!** If you're on the ground and still mobile, get out of the path of other traffic. Don't ride off straight away, even if you think you're uninjured. The shock might mean that you don't notice an injury or damage to your cycle and it may be unsafe to ride for a while.
- **Admit nothing!** Never admit fault or discuss what happened with the driver. What you say could be used to your disadvantage later in proceedings and/or battles over 'contributory negligence', which might reduce your compensation. On the other hand, if the driver says 'sorry' or words to that effect, note it all down carefully.
- **Get help!** Enlist sympathetic passers-by. They may respond better to a direct appeal. They may also have seen what happened and could provide valuable witness evidence for you.

- **Police!** Ring 999 to alert the police - and ambulance if necessary. Say that you've been run down. The incident should then be logged, a fact that might be useful subsequently. The police are more likely to come out if you tell them that an ambulance is on its way.

Note: a lot hangs on the way the police gather evidence, statements etc., so:

- Ask them to attend the scene. If you are injured and/or shocked, say that you can't make your way to them.
- Note the Investigating Officer's name and badge number.
- Note any reference numbers the police allocate to the incident.
- Encourage them to take accurate and thorough notes. They might be getting conflicting stories from various parties, so it's not an easy job for them and it won't help if you're impatient or impolite. Ask them to read back to you what they've written down to make sure that you agree. Be friendly.
- If you're *absolutely* sure that the incident doesn't merit police attendance, go to a police station to report it that day, or very soon afterwards.



- **The driver!**
 - Take the driver's name and address, and anything else you feel is noteworthy about them.
 - Note the vehicle's registration number, make and colour, and any other vehicle(s) involved. Gather as many details as you can independently of the driver – they might give you false information.
 - If it's a commercial vehicle/bus/taxi/van, note the company, livery etc.
 - Ask for the driver's insurance details.
 - Watch out for any attempt by the driver to move their vehicle to a less incriminating location. This is where your camera comes in – get a photo before they move the vehicle 'out of the way'.

The driver's legal duties: Under the Road Traffic Act 1988, sections 168-177, a driver must "...stop, report [an] accident and give information or documents" when injury or damage has occurred and whether or not it was their fault. The driver must supply their (real!) name and address, and those of the vehicle owner (if different), plus insurance details. Anyone "with reasonable ground for so requiring" can ask a driver to supply all this – so police back-up isn't a requirement.

Hit and run/uninsured: If the driver is no longer at the scene and/or uninsured, you may be able to claim on the UK-wide Motor Insurers Bureau (www.mib.org.uk/). For that to be a realistic prospect, you must report the incident to the police speedily.



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- **Witnesses!**

- Take names, telephone numbers and addresses of at least TWO witnesses.
- To save writing it all down, ask if they can supply business cards.
- Don't give the police your only copy of all this. Write it out again for them.

- **CCTV!**

- Look about for CCTV cameras – they're all over the place nowadays.
- List them in writing, noting whether it's privately owned or not (e.g. if they belong to a bank).
- Privately owned CCTV data may be wiped frequently, so don't delay. If the police don't seem inclined to get hold of the footage, you may need to do that yourself via a 'data subject access request' under Section 7(1) of the *Data Protection Act*. For more on your rights over CCTV data, see www.ico.gov.uk/for_the_public/topic_specific_guides/cctv.aspx and www.ico.gov.uk/upload/documents/library/data_protection/introductory/subject_access_rights.pdf

- **Medical help!** If injured:

- Seek medical advice from a hospital/GP. Certainly, if people are telling you that you need to go to hospital for treatment, don't resist.
- Tell the medical staff who treat you that you've been involved in a road crash and may need to take the case further.
- Don't ignore even the most trivial injury. It might get worse and you'll regret not reporting it at the time.
- Keep a diary about your injuries until you're fully recovered.

Officially, reported injuries are classified as either 'serious' or 'slight':

- **Serious:** an injury for which a person is detained in hospital as an "in-patient", or any of the following injuries whether or not they are detained in hospital: fractures, concussion, internal injuries, crushings, burns (excluding friction burns), severe cuts, severe general shock requiring medical treatment and injuries causing death 30 or more days after the accident. An injured casualty is recorded as seriously or slightly injured by the police on the basis of information available within a short time of the accident. This generally will not reflect the results of a medical examination, but may be influenced according to whether the casualty is hospitalised or not. Hospitalisation procedures will vary regionally.
- **Slight:** an injury of a minor character such as a sprain (including neck whiplash injury), bruise or cut which are not judged to be severe, or slight shock requiring roadside attention. This definition includes injuries not requiring medical treatment.

Source: Road Casualties Great Britain 2008:

www.dft.gov.uk/adobepdf/162469/221412/221549/227755/rrcgb2008.pdf



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- **Photos & sketches!** Record images of:
 - Each and every relevant feature: kerb, lamppost, traffic markings and signs. This is worth doing as the council may make changes to the layout between your crash and any subsequent legal hearing. You need to know what it was like when the incident occurred.
 - Where the vehicles involved started off and where they ended up.
 - Any visible injuries (you may need to take further photos to plot your physical state in the following weeks).
 - Any damaged property.
- **Damaged stuff and lost wages!** This is vital if you want to make a civil claim:
 - Don't ride off on your bike (this won't look good – and it might be risky!)
 - Keep any damaged clothing and cycle parts.
 - Obtain a written assessment (e.g. from a cycle shop) of the damage.
 - Note any time taken off work and lost wages etc.
- **Expenses!** If you incur any expenses as a direct result of what's happened, keep a full record, together with receipts. These could include your outlay on pain killers, bandages, alternative travel (e.g. public transport) etc.
- **The police again!**

Remember that each police force is independent – and some give more priority to road traffic policing than others. Thus some victims find that the police response entirely lives up to expectation, whilst others don't.

In fact the police have far more discretion over what to do about reported road traffic offences than they have over other types of alleged crime. For most *non-driving* offences it is the Crown Prosecution Service (CPS) and not the police that decides on charging; but, with certain exceptions, the police are responsible for determining the charge for “...*any offence under the Road Traffic Acts or any other offence arising from the presence of a motor vehicle, trailer, or pedal cycle on a road or other public place.*”

This means that the police may filter out many collision reports and little or no action ensues – and, as mentioned above, some are disposed to filter out more than others.

Consequently, persuading the police not to weed out your file may well prove to be a hurdle. The driver may simply be referred to a 'Driver Improvement Scheme' or a 'Speed Awareness Course', for example, and the potential for a successful prosecution is lost. In fact, this is the most common outcome.

Generally speaking, the circumstances in which the police *do* have to pass on the case include those where there is “an allegation of dangerous driving” (although it's not clear from the applicable guidance who decides this); if someone has died; or if the offender has been driving whilst disqualified (and won't admit it) and/or whilst unfit from drink/drugs.

For more on the guidance that police officers follow on charging, see:
www.cps.gov.uk/Publications/directors_guidance/dpp_guidance.html#_01



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- If you don't hear from the police, ring up and ask for a progress report. Persist!
- If you can't get the answers you need, politely ask to speak to a senior officer.
- Take a note of the name of every officer you speak to, when you've spoken to them and what actions they promised.
- If you find out that the police have decided to caution the offender and/or send them on some kind of driver improvement course and if you feel that the offence is too serious for such a light response, argue the point. If you don't make headway, take legal advice and remember to report this via CTC's **Stop SMIDSY** website (see below).
- If you are unhappy about the way the police are handling your case, complain to the police station. The procedure to follow is usually outlined on the relevant force's website. If this does not resolve the situation, as a last resort go to the Independent Police Complaints Commission - www.ipcc.gov.uk/ (England and Wales) or to the Crown Office and Procurator Fiscal Service - www.copfs.gov.uk (Scotland).
- **Be organised!** Keep a correspondence log of emails, phone calls, letters between police, other party, insurance company and the CPS, if applicable. Keep all papers in a dedicated folder.
- **CTC's hotline!** CTC members can call our Legal Helpline on 0844 736 8452 (24 hours a day, 365 days a year).



WWW.STOP-SMIDSY.ORG.UK

Stop SMIDSY! Tell CTC what happened on CTC's crash / near miss reporting system. It's on-line at www.stop-smidsy.org.uk. This will help us gather evidence to campaign for the police and the legal system to do a better job of tackling bad driving.

WHAT NEXT?

For advice on pursuing claims and cases against bad drivers, see our companion briefing at www.stop-smidsy.org.uk/information/crash





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What to do about road rage

If a driver has intimidated you, or if you've suffered injury and/or damage as a result of their driving, it's hard not to feel angry. It's an instinct. Equally, you might find yourself subject to aggressive behaviour, even if you know you haven't done anything wrong. Sometimes just being a cyclist is enough to enrage another road user. Sometimes, it's simply because the motorist is having a bad day.

Most road rage incidents don't go beyond gestures and/or verbal abuse. However, it's a fact that some escalate into physical violence. For your own sake, you need to avoid this, even at the expense of pursuing compensation. The following advice might help:

- Don't retaliate and do your best not to take whatever happens personally. Remain civil and dispassionate, even if the other party isn't.
- Don't make eye contact with an angry driver.
- Take a moment to collect yourself. If you feel physically threatened, don't underestimate the risks. Think about the consequences of reacting in a way that you suspect might make the driver even angrier – do you really want to get beaten up or run down? Is it worth it?
- If you can't calm the situation down, rise above it and remove yourself. If possible, take a route that doesn't allow motor vehicle access. Extricating yourself doesn't necessarily mean that you haven't recorded the details of the car, the time and place of the incident, i.e. the sort of details you'll need when you report what happened to the police.
- If a driver starts following you, don't go home. Go to the nearest police station, if you can and file a complaint against the driver.



WWW.STOP-SMDSY.ORG.UK

What about STATS 19 ... and what are STATS 19 anyway?

In casualty cases, police officers fill in STATS 19 forms. These are, essentially, official returns to help national and local government gather intelligence on road traffic incidents and to guide decisions on what road safety improvements are needed and where and what priority and resources to give them.

As the police fill in STATS 19 forms in the first few days after a collision, they may well be limited to guesswork: it's often not that easy for an officer to determine each and every contributory factor there and then. Moreover, the police are expected to be able to testify in court as to what they report, so they may be cautious about what they write down. The forms therefore are of somewhat limited value when it comes to prosecution (or potential prosecution) and may not be especially comprehensive. It is, however, worth asking to see what they say, just in case it helps your case.

For a copy of a STATS 19 form, see the DfT's *Road Casualties Great Britain*, pages 187-190 www.dft.gov.uk/adobepdf/162469/221412/221549/227755/rrcgb2008.pdf



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Useful websites

www.stop-smidsy.org.uk - CTC's online crash reporting tool, part of a campaign to heighten awareness of cyclists' road safety needs to drivers, legal authorities and agencies, and the Government; and in the longer term to help change the justice system and relevant legislation.

www.ctc.org.uk/legaladvice - for CTC's legal advice line supplied by RJW solicitors.

www.cyclistsdefencefund.org.uk - The Cyclists' Defence Fund (CDF) formed to fight significant legal cases, now covering all aspects of cycling and the law. Amongst other things, its website offers advice on personal injury procedures, explaining in detail how a lawsuit works. There's also a useful guide to legal terminology.

www.roadpeace.org - UK national charity for road crash victims, supporting those bereaved or injured. Offers a free helpline and information on crash investigations, the procedures that follow a crash, on inquests, criminal and civil court hearings and appeals.

www.direct.gov.uk/en/TravelAndTransport/Highwaycode/DG_070236 - for the Highway Code and background information about it and the legislation it quotes.

www.ipcc.gov.uk/ - for complaints about the police in England and Wales; www.copfs.gov.uk for complaints about the police in Scotland.

www.courtroomadvice.co.uk - for information on claims, courts, hearings, structure etc, throughout the UK; www.hmcourts-service.gov.uk for England and Wales; and www.scotcourts.gov.uk/ for Scotland.

www.cps.gov.uk/ - for more on the role of Crown Prosecution Service (England and Wales) and its codes on prosecuting bad driving; www.copfs.gov.uk – for more on Scotland's Crown Office and Procurator Fiscal Service.

www.sentencing-guidelines.gov.uk - for the Sentencing Guidelines Council's (England and Wales) advice to courts on sentencing. Currently, there are proposals to set up a Sentencing Guidelines Council in Scotland.

www.lcc.org.uk and www.londonfgss.com/ - for practical advice from London cyclists on what to do after a crash.

www.mib.org.uk - the Motor Insurance Bureau, which may be able to help if the driver left the scene and/or was uninsured.

www.opsi.gov.uk - for the text of relevant Acts of Parliament (search for title of Act).