

## What to do if you have a collision when on your bike

Although cycling is a very safe form of transport<sup>1</sup>, unfortunately collisions do occur.

The purpose of this Note is to make cyclists more aware of their rights and able to assert them, in the difficult circumstances which follow a collision.

We also hope it will encourage those who are involved in a collision and all members of the cycling community, to report every incident to the police with a view to achieving prosecutions and the identification and correction of any road design weaknesses.

It is also worth remembering that even in the sometimes hostile environment of the road network, cyclists can play their own part in reducing the incidence of collisions ([See section 8 below](#)).

The advice is not intended to be comprehensive and not all aspects will be relevant in every case.

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## 1 Steps to take immediately following a collision

- a. See to the health and wellbeing of yourself and others involved. If it is not possible to act independently, enlist the help of onlookers, or rely on them to help spontaneously.
- b. Consider telephoning 999 to ask for ambulance, and/or police attendance. What at first appear to be minor injuries may be more serious and assessments are best made by professionals.
- c. Regarding the collision, only the police can fully investigate and assess causes - were other parties under the influence of drink or drugs, are they insured, licensed, and entitled to drive? If you call, provide the emergency operator with a precise location (eg street names at junctions, or street name and direction of travel). Don't think a 999 call is inappropriate. In the circumstances of a collision, it is not.
- d. The police generally attend all incidents reported to them where there is information to suggest: injury to one or more parties; resulting obstruction or congestion; allegation of offences having been committed; allegation of mechanical failure; or damage to property other than the vehicles involved.

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<sup>1</sup> Contrary to the common belief that cycling is dangerous, studies have shown that regular cycling is associated with longer life - see <http://www.cyclehelmets.org/1185.html>

- e. If possible, note, or preferably photograph, the registration of any vehicle involved in the collision, or parked nearby (whether illegally or not) which by its position on the road may have contributed to the collision.
- f. If possible, sketch, or preferably photograph, the position of all vehicles at the site of the collision.
- g. Do not discuss the cause of the collision with, or apologise to, anyone regarding it.
- h. Exchange details (names, addresses, and insurance information) with the other parties involved.
- i. Talk to other potential witnesses as they may be able to confirm your perceptions or relate information of which you were not aware (for example, the other party was using a mobile phone or was otherwise distracted).

## 2 If the police attend the incident

- a. The police have the right to demand names and addresses, whether you are involved in, or are a witness to, the incident. In any case, every effort should be made to assist the police with their investigation as a successful prosecution of offenders depends on them collecting all relevant evidence.
- b. If other parties complain to the police about your use of photography, you are entitled to ignore them.
- c. Except in cases, such as a hit-and-run, where evidence may be urgently required to trace a driver or vehicle, do not volunteer your notes, camera, digital card or film, as they will likely remain in police hands for many weeks and this could hamper a victim's efforts to pursue a civil case.
- d. If you suspect, or are convinced that the other party in the collision was at fault, you should make this clear to the police along with your reasons.
- e. Following an interview, the police should provide you with an incident reference to allow you to follow up the incident should that be necessary. If the reference is not provided as a matter of course, ask for it.
- f. If you are dissatisfied with the attending officers' attitude to the investigation and you want to take things further, you should raise the matter in writing with the Chief Constable.

## 3 If police do not (or did not) attend the collision scene

- a. As soon as possible report the incident to your local police station. You can call Lothian and Borders Police Communications Centre, (0131) 311 3131 to clarify the appropriate station. If the police refuse to accept a telephone report of such an incident, provide a report in writing either by email to [enquiries@lbp.pnn.police.uk](mailto:enquiries@lbp.pnn.police.uk) or by letter, addressed to the Duty Officer at the appropriate police station address.
- b. When reporting, you will need to provide details of the incident, the time, location, parties involved, a description of what happened, any contributory factors and your contact details. If reporting in writing, request a response acknowledging receipt and the action taken by the police
- c. You should be provided with an incident reference and your report will become part of the national "accident" statistics. This database records all reported incidents that meet the following criteria<sup>2</sup> - occurring on public roads, at least one party injured (a bruise counts as an injury), involving two vehicles, and reported within 30 days of the incident. If these criteria are met, your report should be accepted. However if it is refused, you should be told the grounds for this and the name/identification of the person who has made the decision. If you are dissatisfied you can seek the view of a more senior officer. If you

<sup>2</sup> The Road Accident Statistics criteria are fully covered at <http://www.dft.gov.uk/collisionreporting/Stats/stats20.pdf>

remain dissatisfied, you can raise a query with the Chief Constable about how your report was dealt with (address below). Spokes would like to know about reporting problems, whether or not you raise such a query. If necessary write to us at [spokes@spokes.org.uk](mailto:spokes@spokes.org.uk) or by letter to Spokes, St Martins Church, 232 Dalry Road, Edinburgh, EH11 2JG.

- d. The police are a public service body and you are entitled to ask for updates on any progress regarding a case if you have been involved in a collision.

#### **4 If you think a prosecution should be pursued against the other party**

Ask the police if the collision is being reported to the Procurator Fiscal. If it is not, but there appears to be sufficient evidence of a breach of Road Traffic Law, request reasons from the police. You may want to ensure you get an explanation from a supervising officer rather than a Constable. If you remain unconvinced, you can query, respectively with the Chief Constable or the Procurator Fiscal, any refusal to report or to prosecute.

Spokes, locally, and the CTC nationally, have evidence which suggests there is a culture of reluctance on the part of the authorities to prosecute road traffic offenders even when sufficient evidence exists. This needs to be challenged for the benefit of all cyclists. The law should be strictly enforced to protect vulnerable road users and victims owe it to themselves and others to press, if evidence is available, for prosecutions to be brought. If necessary, please write to the Chief Constable and Procurator Fiscal in Lothian and Borders area at -

The Chief Constable Lothian and Borders Police Force Headquarters Fettes Avenue EDINBURGH EH4 1RB Or via <a href="mailto:enquiries@lbp.pnn.police.uk">enquiries@lbp.pnn.police.uk</a>	The Regional Procurator Fiscal Lothian & Borders Area 29 Chambers Street Edinburgh EH1 1LD
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Quote your incident reference in any correspondence.

Please let Spokes know about any such cases using [spokes@spokes.org.uk](mailto:spokes@spokes.org.uk) or SPOKES, St. Martin's Church, 232 Dalry Road, Edinburgh EH11 2JG

#### **5 If you think you are entitled to compensation.**

A further course of action open to the victim seeking compensation for injury or damage to property is to **pursue a civil claim** against the driver who caused the collision. As this is best done with professional help, check the availability of free legal assistance. If you are very hard up you may be able to secure financial backing from the Legal Aid Fund, but most people will have to rely on other options, such as legal insurance attached to a home insurance policy, a trade union which provides legal aid in cases unconnected with the member's work, legal assistance provided to members by the CTC, or "no-win no-fee" lawyers. Particularly with the latter, check the contract to discover any liability for fees or expenses you may incur if the case is unsuccessful, or is withdrawn by you. No-win no-fee lawyers with experience of cycling cases sometimes advertise in the Spokes Bulletin.

You may also be able to claim against the highway authority if bad highway design or poor maintenance caused or contributed to the incident. Many interesting examples can be found at [www.cyclecraft.co.uk/expert\\_casebook.html](http://www.cyclecraft.co.uk/expert_casebook.html)

## 6 Other incidents where the police should be informed

There are some serious incidents that do not fall into the official definition of a “road accident” that should still be reported to the police. Examples include

- a. those occurring off road
- b. malicious or dangerous behaviour by third parties which could endanger or cause injury to cyclists (eg, having objects thrown at you, which is an assault)
- c. having abuse shouted at you from a passing vehicle (which is a breach of the peace likely to cause fear and alarm).

For immediate assistance report such cases to 999 or otherwise to Lothian and Borders Police Communications Centre, (0131) 311 3131.

## 7 Liabilities and Insurance

It is not always the other party who is to blame for a collision! The cyclist may be partly or wholly at fault, giving rise to a claim or counterclaim (usually funded by a driver’s insurance company). It is wise therefore to carry public liability insurance which is available with home insurance policies or CTC membership, and provides cover of a million or more pounds. If a court finds a cyclist liable in whole or in part, and pronounces decree for a sum of money, there is no escape even for the very poor - the insurance company will pursue you and arrest your wages or claim any lump sum you receive in the future.

## 8 Strategies to make collisions less likely

- a. ride cautiously, defensively, and not too fast for the conditions,
- b. keep a good look-out ahead, and fit a rear-view mirror to see what is coming up behind,
- c. maintain brakes and lights in good condition,
- d. wear high visibility clothing even in daylight,
- e. do not ride in the gutter: one metre away from the edge of the road or parked vehicles is safer,
- f. approaching a junction or lanes of queued traffic, check behind you and when appropriate, move into the centre of your lane so you cannot be overtaken.

Many cyclists wear a helmet in the expectation of additional protection should they have a crash. If you do, don’t be lulled into a false sense of security. A helmet provides only limited protection to a small area of the body, and is designed for impact speeds up to approx 10mph (the speed your head might reach if you fall off the bike and it hits the ground). A helmet does not prevent collisions or make them less likely - indeed there is some evidence that you may be more likely to have a crash if using a helmet. Considerable research on helmets and helmet wearing is available<sup>3</sup>.

**This Note is published by Spokes, the Lothians Cycle Campaign.**

**Latest update: March 2011 - crash examples website added in section 5**

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<sup>3</sup> For full coverage of the issues surrounding cycle helmets see - <http://www.cyclehelmets.org/>