

Response from CTC, the national cycling charity, to The Transport Safety Commission (May 2014)

Introduction

1. CTC, the national cycling charity, was founded in 1878. CTC has 70,000 members and supporters, provides a range of information and legal services to cyclists, organises cycling events, and represents the interests of cyclists and cycling on issues of public policy.
2. CTC's 'Safety in numbers' campaign has shown that 'more' and 'safer' cycling can *and should* go hand in hand, and calls for the actions needed to ensure that they do (www.ctc.org.uk/campaign/safety-in-numbers). CTC's ongoing 'Road Justice' campaign is highlighting the inadequacies of the responses to bad driving from the police, prosecutors and the courts, while calling for action to improve these (www.roadjustice.org.uk).
3. In April, CTC launched the national 'Space for Cycling' campaign calling on local politicians to create conditions so that anyone can cycle anywhere. (www.ctc.org.uk/campaign/space-for-cycling)
4. CTC played a key role in shaping the Times newspaper's 8-point 'Cities fit for cycling' manifesto¹, and the subsequent parliamentary 'Get Britain Cycling' inquiry and report², whose 18 recommendations we strongly endorse. CTC's President, the broadcaster Jon Snow, gave evidence both at the Commons Transport Committee's original inquiry on the Government's road safety strategy³, and the 'Get Britain Cycling' inquiry⁴, emphasising the importance of 'leadership'.
5. In response, the Prime Minister publicly stated his ambition to launch a 'Cycling revolution'. The Government is now drafting a 'Cycle Delivery Plan' and CTC is represented on the steering group that provides high-level input into it. Last year, we hosted 3 days of discussions with Department for Transport (DfT) officials⁵ to discuss proposals. We also have regular dialogue with officials from DfT and other departments or governmental bodies, including the Highways Agency.
6. For more detail on the subjects we highlight in this response, please see CTC's series of campaigns briefings on safe drivers and vehicles, in particular: *Road Safety Overview*; *Traffic Law and Enforcement Overview*; *Traffic Policing*; *The Legal Framework and Sentencing*; *Prosecutors and Courts*. All are available at: www.ctc.org.uk/campaignsbriefings

Background

7. We will expand on some of the Commission's specific questions later, but to set our comments in context, we first outline our key views on both **road safety strategies** and on **traffic law and enforcement** – areas which strike us as particularly relevant to the Commission.

Road safety strategies:

We believe that road safety strategies should recognise that:

8. Cycling is essentially a safe activity, causing little risk either to cyclists themselves or to other road users. Its health benefits far outweigh the risks involved, i.e. despite those risks, cycling significantly increases one's average life expectancy.⁶ Moreover, there is good evidence that

¹ See www.ctc.org.uk/news/2012-02-09/cities-fit-cycling

² See www.ctc.org.uk/campaign/get-britain-cycling

³ See www.ctc.org.uk/news/2012-07-17/road-safety-inquiry-highlights-lack-of-government-leadership-on-cycling

⁴ See www.ctc.org.uk/ministers-police-and-jon-snow-appear-appcg

⁵ See www.ctc.org.uk/blog/roger-geffen/ctc-in-3-day-talks-on-delivering-pms-cycling-revolution

⁶ For this and other facts about the health benefits v the risks of cycling, see CTC's briefing *Health and Cycling* http://www.ctc.org.uk/sites/default/files/file_public/health-and-cyclingbrf.pdf

cyclists gain from 'safety in numbers', with cycling typically becoming safer as cycle use increases. In other words, *more and safer cycling can, and should, go hand in hand.*⁷

9. Cycle safety is nonetheless a good deal worse in Britain than in many neighbouring continental countries. Despite its health and other benefits, people in Britain are deterred from cycling (or from allowing our children to do so) by both the actual and perceived risks involved. Fear of road traffic is a major deterrent: a significant number of non-cyclists – around 65% according to a Government survey⁸ – feel that it is too dangerous for them to cycle on the roads; and very nearly half (48%) of those who do cycle share this view.
10. To maximise the health, economic, environmental and other benefits of more and safer cycling, the focus of action nationally and locally needs to be on removing those actual and perceived risks: unsafe road and junction designs, traffic volumes and speeds, irresponsible driving (and a legal system that fails to respond adequately to this), and the disproportionate threat of lorries.
11. Cycle training also plays an important role. Not only does it give would-be cyclists of all ages the confidence and skills they need to cycle safely and legally, but it also helps improve driving standards as part of the driver training process, particularly for drivers of lorries and other large vehicles.

Traffic law and enforcement

12. We believe that traffic law and enforcement needs fundamental reform so that the legal system prevents bad driving effectively, and allows people to cycle without fear of injury through someone else's wrongdoing. However, the under-resourcing of roads policing, inadequate police investigations, weak charging decisions and poorly conducted court and inquest hearings can all result in derisory sentences, or in failures to prosecute or convict at all. This causes enormous distress to injured and bereaved road crash victims, whilst perpetuating society's complacent attitudes to safety on our roads.
13. For more detail, reports, recommendations and victims' stories relating to roads policing, charging and prosecution, and on the courts and sentencing, see www.roadjustice.org.uk.

The following improvements are especially vital:

Offences:

14. Bad driving that causes obviously foreseeable danger should be classed as a 'dangerous' driving offence. It should not, as often happens, be dismissed merely as 'careless' driving.

Roles:

15. The **police** should investigate all road crashes thoroughly and systematically, and pass all charging decisions to the prosecution services where there has been an injury.
16. Changes to the law itself may be needed, but in the first instance at least, **prosecutors'** guidelines should ensure that driving that gives rise to obviously foreseeable danger is treated as *dangerous* and not dismissed as merely *careless*. Manslaughter or assault charges should be more widely used where there is evidence that danger was caused recklessly or intentionally.
17. **Courts** should make greater use of driving bans and not routinely accept 'hardship' pleas from drivers facing bans.

Victim blaming and victim support:

18. All those involved at any stage in dealing with road traffic offences should guard against a propensity to blame the victim automatically.

⁷ See www.ctc.org.uk/campaign/safety-in-numbers

⁸ DfT. *British Social Attitudes Survey 2012: Public Attitudes Towards Transport*. (Fig. 2.4). July 2013. www.gov.uk/government/uploads/system/uploads/attachment_data/file/209890/bsa-2012.pdf

19. Road collision victims and their families should receive support to the same standards as the victims of other crimes with similarly severe consequences. They should be kept well-informed of the progress of their case and consulted on key decisions.

Terminology

20. The word 'accident' should not be used to describe road collisions – 'collision' or 'crash' should be used instead. See *It's a crash not an accident* from RoadPeace for more on this.⁹

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Topics specific to the Commission's Inquiry

Leadership, responsibility and co-ordination: deficiencies

The justice system's response to road crashes:

21. Firstly, it is important to note that there is good evidence to suggest that the fear of detection and prosecution helps make people think twice about driving badly in the first place – more so, in fact, than the severity of the resulting sanctions. A strong showing of roads traffic police is therefore vital. However, as highlighted by CTC's Road Justice campaign (www.roadjustice.org.uk), the numbers of traffic police officers in England and Wales fell by 29% from 2002/3-2011/12, from almost 7,000 uniformed officers down to just 4,868. During that same period, total policing levels remained unchanged, at around 135,000.¹⁰
22. The drop in traffic officer levels also compromises the capacity of the police to investigate crashes to the necessary standard so that there is sufficient good evidence to make the appropriate charges and pursue feasible prosecutions (see also paragraph 28 below).
23. Since the introduction of the charge of 'causing death by careless driving' in 2008 under the *Road Safety Act 2006*, there has been a sharp drop of around 50% in the number of drivers prosecuted for 'causing death by dangerous driving'. Even when the drop in road fatalities over the same period is taken into account (about 30%), this is still a significant reduction. CTC believes that since 2008, the threshold between 'dangerous' and 'careless' driving has thus been effectively downgraded, even though the legal definition of these terms has not changed. This reinforces CTC's contention that the prosecution services are not paying proper regard to the correct definitions, and that driving that causes obviously foreseeable danger is now increasingly likely to be dismissed as being merely 'careless' - an outcome that is entirely at odds with the need to promote road safety.¹¹
24. The public has legitimate concerns about locking up people who are not generally a danger to society. In the case of driving offences, therefore, it makes sense to reserve imprisonment for the most serious examples of dangerous driving, and for those who persistently break driving bans, or who otherwise persist in driving when not entitled to do so.
25. To penalise those drivers who have caused serious dangers, but not recklessly or intentionally, CTC believes that long driving bans should be more widely used, both for the protection of the public and as a disincentive. However, where they have discretion, the courts seem not only reluctant, but *increasingly* reluctant to take driving licences away. For example:
 - o Driving bans as a percentage of convictions for dangerous driving fell from 92% in 2011 to 89% in 2013. Since 2009, there has been a 6% drop in the number of bans given for dangerous driving convictions.

⁹ www.roadpeace.org/resources/Crash_not_Accident_May_11_2011.pdf

¹⁰ CTC's briefing *Traffic Policing and Other Enforcement Agencies* lists a range of evidence demonstrating that fear of detection and prosecution is a highly effective deterrent, and also goes into detail about traffic policing levels, resources and crash investigation. www.ctc.org.uk/sites/default/files/file_public/traffic-policingbrf.pdf

¹¹ CTC's briefing *Prosecutors and Courts* discusses the evidence and CTC's conclusions in more detail.

www.ctc.org.uk/sites/default/files/file_public/prosecutors-and-courtsbrf.pdf

- The number of lifetime bans given for dangerous driving convictions fell from nine in 2011 to two in 2013.
 - According to a parliamentary answer in 2013, the courts chose not to disqualify 7,842 of the 12,470 (63%) drivers with more than 12 points on their licence.¹²
 - Ministry of Justice figures show that fines are the most common penalty for motoring offences, issued for around 77% of those convicted in the Magistrates' Courts in 2012.¹³
 - The same figures show that bans were only given for 12% of offences (79,236 offences/71,740 drivers). Two thirds of these were for drink/drug driving.
 - Even when drivers are banned, it is very rarely for over three years – in fact, many are banned only until they've passed their driving test again. Most bans (65%) are less than 6 months.
26. Another deficiency relates to the fact that there is no linkage between the STATS 19 data (e.g. data collected by the police at the scene on what types of road user suffer what types of injuries in collisions) with the criminal justice system (who gets prosecuted, convicted, sentenced, and for how long, as a result of slight, serious and fatal injuries involving different road users).
27. So, for instance, we don't know whether drivers are treated more harshly or more leniently than cyclists when they are involved in fatal or serious injuries to pedestrians, nor whether drivers are treated more harshly or leniently when they injure or kill cyclists compared with other road users.

Lack data and accountability over who makes what prosecution decisions, and why:

28. Depending on the seriousness of a case, decisions on whether to charge can be made either by the police or prosecutors (CPS, Procurator Fiscal etc.). However, in cases where road crash victims or bereaved families are aggrieved at a decision not to prosecute - or to prosecute merely for a 'careless' offence rather than a 'dangerous' one (see para 13 above) - it can be very difficult to find out who made the decision, and why.
29. Similarly, at the aggregate level, we have no data on why so few fatalities result in any kind of prosecution, or why so many KSI collisions are prosecuted as mere 'careless' driving offences.
30. Clearly, there will be some cases where the police conclude (no doubt correctly in some, but not all cases) that a fatal collision was the fault of someone who died as a result. There will be other cases, however, where the police or prosecution service decides not to prosecute for lack of sufficient evidence. In these cases, it would be interesting to know: a) if the prosecution service was happy with the quality of the police investigation; and b) if the police were happy that the prosecutors made the right decision.
31. At present, though, the public has no information about what goes on behind the scenes. At the individual level, road crash victims find this lack of transparency extremely hurtful when (as so often happens) they feel the process is seriously flawed, but they really struggle to find out what has gone awry. Much greater accountability is needed, in order to know what areas of the system are most in need of improvement, in both organisational and geographic terms.

¹² Parliamentary Question asked by Lord Berkeley, 16th May 2013.

www.theyworkforyou.com/wrans/?id=2013-05-16a.8.0&s=speaker%3A13505#g8.1

¹³ For these and other driving ban statistics, including source references, see RoadPeace's briefing *Driving Bans – England and Wales (2012)*, Oct 2013. www.roadpeace.org/resources/RoadPeace_Driving_bans_2012.pdf; and Ministry of Justice figures www.gov.uk/government/organisations/ministry-of-justice/about/statistics

Coroners' complacency over road deaths:

32. If concern is identified at an inquest (e.g. over lorry safety, junction design etc.), coroners have a duty to produce 'Preventing Further Deaths' (PFD) reports and send them to a person /organisation who could take the necessary action. However, a recent review from RoadPeace found that from 2008-13, only 4% of road death inquests in London led to such a report.¹⁴

Recommendations:

- **The police, prosecution services and courts all need to be adequately resourced** to deliver justice to a high standard.
- **The courts should be less reluctant to impose driving bans** on drivers who have caused serious dangers, but not recklessly or intentionally.
- The DfT, Home Office and Ministry of Justice (and the relevant bodies in Scotland) should set up a **national road crash investigation agency**, similar to those used for rail and aviation.
- These departments should collaborate to develop **systems to link, collect, monitor & disseminate local / national level data** on the justice system's responses to driving offences.
- **Better training** should be provided for traffic police, investigation officers, family liaison officers, prosecutors, coroners, judges, magistrates in relation to the handling of road traffic offences and incidents, particularly where cyclists or other vulnerable road users are involved.
- **Coroners** should take their duty to write 'Preventing Further Deaths' reports seriously.

Need for better co-ordination of road safety activity between local authorities and local police forces:

33. The difficulties of joined-up working at the local level seem to undermine a range of potentially valuable initiatives, from schemes to reduce speed limits, to the linkage of road user awareness campaigns with related enforcement activity. For example, many police forces are reluctant to support a local authority's proposals for widespread 20 mph limits unless the scheme is 'self-enforcing', because they feel they don't have the capacity to enforce them.

Recommendations:

- The police and local authorities should always liaise with each other over road safety initiatives, to make sure that campaigns are backed up with targeted enforcement.
- The police should not withhold their support for 20mph schemes on the basis that the local authority proposes to introduce them without costly physical traffic calming.

Need for stronger links between cycle training with driver training and awareness:

34. There is good evidence that drivers who do not cycle have incorrect perceptions about what constitutes safe and legal cyclist behaviour, and do not understand how to interact with them safely.¹⁵ In particular, CTC believes that it is vital for drivers to appreciate the importance of looking out for cyclists when pulling out at junctions and leaving them sufficient space when overtaking. They also need to be made aware that, when cyclists ride in the centre of a traffic lane, they are not being wilfully obstructive, but are trained to do so for their own safety under the Government-backed National Standard cycle training scheme.

¹⁴ RoadPeace. *London Coroners Preventing deaths: A Five Year Review (2008-13)*. www.roadpeace.org

¹⁵ See TRL report *Drivers' Perceptions of Cyclists*. 2002.

http://www.trl.co.uk/online_store/reports_publications/trl_reports/cat_road_user_safety/report_drivers_perceptions_of_cyclists.htm

35. CTC therefore advocates widespread practical National Standard cycle training both for children and, as necessary, for adults, so that more people have first-hand experience of cyclists' needs. This should be backed up by formal cycle awareness instruction for would-be and existing drivers.
36. The National Standard (often branded as 'Bikeability') is designed to introduce trainees to real-life, on-road conditions, which is demonstrably the most effective approach.¹⁶ There are three Bikeability levels, all suitable for both adults and children, ranging from basic cycle control skills to training for all types of road conditions and more complex situations.
37. Although now more widespread, National Standard cycle training is still subject to a 'postcode lottery' because neither schools nor local authorities are currently obliged to provide it – some are enthusiastic, but others less so. The ability to swim is considered to be a crucial life skill and the same could easily be said of being able to cycle on the roads confidently and safely. Like swimming, regular cycling also contributes to fitness, but unlike swimming, cycling can help tackle congestion and air pollution, as well as teaching young people road-craft skills. Despite this, swimming has a place on the National Curriculum, while cycling currently does not.

Recommendations:

- School curriculum time should be made available for both primary and secondary school pupils to receive cycle training through to Level 3 of the 'Bikeability' national standard.
- Cycle awareness training should be incorporated into the driver training and testing process. Practical training should be mandatory for the drivers of large vehicles.
- The DfT should research whether participation in cycle training improves people's ability not only to cycle safely, but also to learn to drive, and to drive safely.
- There should be closer dialogue between the Driver and Vehicle Standards Agency and the Cycle Training Standards Board.

Lorry safety - divided responsibilities:

38. Concerted moves to tackle the disproportionate threat that lorries pose to both cyclists and pedestrians is vital. After all, these vehicles account for just 5% of road vehicle miles in Britain, yet are typically involved in 15% of pedestrian fatalities, around a fifth of cyclist fatalities, and over half of the cyclist fatalities in London.
39. Measures that would help protect both cyclists and pedestrians include:
 - Ensuring that vehicles are safe and that drivers are fit to drive them.
 - Cycle awareness training for drivers or, better still, actual cycle training.
 - Training for cyclists to help them interact with goods vehicles as safely as possible.
 - Publicity campaigns for drivers and cyclists alike, highlighting hazards and how to avoid them.
 - Designing and specifying lorries to provide clear direct vision between the driving position and any pedestrians or cyclists near to the vehicle, including fitting bigger windows. To complement this (or where better direct vision is genuinely impossible to deliver effectively), other safety devices should be specified and fitted, e.g.: sensors and alarms, in-cab cameras; mirrors/lenses; side guards; external warning signs; and intelligent speed adaptation.
 - Road layouts and street furniture (e.g. 'Trixi' mirrors) that facilitate safe interaction.
 - Traffic management measures, routing and distribution strategies to mitigate the impact of lorries on places where people cycle or want to cycle.
 - Promoting freight cycles for goods distribution in urban areas.
 - Procurement policies, especially from public authorities, ensuring that the supply and delivery of goods and services takes the safety of vulnerable road users into account.

¹⁶ E.g. Savill, T *et al.* *The Effectiveness of Child Training Schemes*. TRL.1996. www.trl.co.uk

40. At present, no single body is directly overseeing the development and introduction of the above measures. Instead, responsibility is divided between, for example, local authorities, enforcement/standards agencies and operators etc.
41. Transport for London (TfL) is carrying out some commendable work, e.g. by setting up the Fleet Operator Recognition Scheme (FORS)¹⁷ to help enforce high standards of lorry safety equipment / driver training / fleet management etc.; promoting the role of individual local authorities in procuring services (e.g. construction, waste disposal) from safe operators; and requiring safe operators and safe routing as a condition of planning permission.
42. Some other local authorities are keen to follow TfL's lead, yet the last thing the freight industry needs is different authorities coming up with slightly different rules about the safety requirements for operating lorries in different cities.
43. The freight industry itself has a mixed track record, with some operators (notably Cemex) working very hard to deliver best practice on safety. However, those attempting to achieve best practice are undermined by the lack of policy co-ordination (e.g. researching issues like the effectiveness of different camera and sensor systems) or enforcement activity (from both the police and HSE).
44. Yet another body with an interest in goods vehicle safety is the European Parliament. Unfortunately, its recent attempts to legislate for safer lorry designs has been frustrated by individual member states who, under pressure from the industry, have succeeded in securing an eight year delay to the proposed improvements.¹⁸ CTC was pleased to note, however, that the UK Government did not support this moratorium.

Recommendations:

- There is a serious need for consistent and robust guidance on all aspects of lorry safety from a central authority. CTC believes that the Government should step into this vacuum, e.g. by setting up FORS as a national initiative, leading on research and the dissemination of best practice, ensuring that enforcement activity is properly resourced and co-ordinated, and lobbying proactively for lorry safety in Europe.

Need for better safety management at tramlines and level crossings:

45. Although numerically small, cyclists' falls on tramlines and level crossings can easily be fatal. These situations also raise serious issues of accountability for potentially lethal failures of maintenance at the point where the rail abuts the carriageway or crossing surface.
46. In Edinburgh, a law firm identified 100+ incidents of cyclists' falls on the tram rails *before the trams had even started running* on 31st May. CTC also has records of several cyclists' fatalities at railway level crossing locations where safety failings had previously been identified, but not acted on.

Recommendations:

- Signing at level crossings needs not only to ensure people know what to do in an emergency, but also how to report non-injury falls that might reveal critical safety issues.
- As recently highlighted by the Transport Select Committee's inquiry, there needs to be clear accountability for safety management.
- The management of level crossing safety on the rights of way network should not prompt Network Rail to seek level crossing closures by default. Such decisions need to be based on an assessment of alternative crossings available, i.e. can current users easily divert to a safer alternative crossing point (or can one be provided?); or will the closure of the crossing point merely result in increased illegal (and hence unmanaged) crossing activity?

¹⁷ <http://www.tfl.gov.uk/corporate/terms-and-conditions/fors>

¹⁸ See <http://www.ctc.org.uk/news/eight-year-wait-for-safer-lorry-cabs>

Police awareness of cycle safety:

47. There is a similar lack of awareness of cycle safety among many police officers. Co-ordinated police crackdowns on cyclists' behaviour (often prompted by local political concerns, rather than evidence of a real safety problem) frequently lead to cyclists being stopped by officers who believe they are committing offences when in fact they are acting perfectly correctly. CTC has recently opened up a dialogue with ACPO and the College of Policing to try to address this.

Objectives and targets, perceptions and culture

48. In the past, road safety professionals largely focused on reducing casualties in absolute terms, i.e. a drop in the numbers of people killed or injured on the roads. This led to reluctance to encourage cycling on the basis that this could add to the casualty toll and make injury reduction targets difficult to achieve.
49. However, national policy is rightly to encourage *more* as well as *safer* cycling, so it is important to adopt targets and indicators that do not make professionals unwilling to increase cycle use – or, worse, give them an incentive to discourage it. *They should instead recognise that increases in cyclist casualties may still mean cycle safety is improving if cycle use is increasing more steeply than cyclist casualties.*
50. It is also important to find out whether the public thinks that cycle safety is improving in a given locality. This information is relatively easy for local authorities to collect via existing perception surveys (e.g. on public transport), and the results can help focus their attention on tackling the fears that deter people from walking and cycling, rather than on pursuing the sort of scary 'road safety education' campaigns that deter people, especially children and parents, from cycling.

Recommendations:

- Targets and indicators for the effectiveness of road safety strategies should adopt 'rate-based' measures for improvements in cycle safety, e.g. cycle casualties (or fatal and serious injuries) per million km cycled, or per million trips. Simple casualty reduction targets should be avoided.
- 'Perception-based' indicators, which show whether public perceptions of cycle safety in a given area are getting better, can be used alongside 'rate-based' indicators, or as an interim substitute for the latter (e.g. while local authorities are developing their capacity to collect the reliable local data on cycle use needed to produce 'rate based' targets).
- Road safety education campaigns should never 'dangerise' cycling with off-putting, scary or misleading messages, but should instead promote it as a healthy, enjoyable and beneficial activity.