



Please mark response to the attention of Roger Better.

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24th December 2014

Case Number: 011302955159

Trial date: 5th February, 2pm, Bexley Magistrates' Court

For the attention of the Prosecution in the case of Kristian Gregory.

Dear Sir/Madam,

On behalf of our respective organisations, we write to ask the Prosecution to consider whether there is a realistic prospect of conviction in the above case, and whether prosecution is in the public interest.

As a co-signatory of this letter, the Cyclists' Defence Fund wishes to declare that it has agreed to provide the defendant, Mr Kristian Gregory, assistance in covering the legal costs incurred during this case. Similarly, CTC, the national cycling charity which initially founded the Cyclists' Defence Fund (and remains in effect its 'parent body'), wishes to declare that Kristian Gregory has since been elected as a trustee of CTC, representing CTC's members in Greater London. However it was not known that he would be standing for election as a trustee, let alone elected, at the time the CDF trustees undertook to support his case.

On Thursday 3rd July 2014 Kristian Gregory was issued with a fixed penalty notice for riding a pedal cycle on the footway on New Kent Road as part of the Metropolitan Police Operation "Safeway", an initiative begun by the Metropolitan Police following the deaths of six cyclists on London roads in November 2013. As active travel organisations, whose members and supporters (totalling over 200,000 people) include many cyclists, we were alarmed to see an operation aimed at cyclist safety target a cyclist in such inappropriate circumstances. In this letter we provide you with information relevant to this case which we hope will assist you in making your decision regarding whether to proceed with the prosecution.

Summary of incident

At the time of the incident, Kristian Gregory was cycling westbound towards his workplace in central London, following London Cycle Network route LCN 23. This route takes cyclists along the very wide pavement on the south side of the New Kent Road. Mr Gregory was then stopped and fined at a point where there are signs directing cyclists to cross the road

via a pelican crossing. An alternative continuation of the route alongside the New Kent Road had recently been suspended due to building works on the Heygate Estate, immediately to the south of the New Kent Road. Acutely aware of the dangers faced by cyclists on London's roads today, Mr Gregory records his journeys on a video camera mounted on his helmet. He has made the footage of this incident publicly available:

<http://youtu.be/HraAA4W2AJc>

As will be evident from the footage, Mr Gregory was cycling along the route sticking to the areas marked for cycling where possible. He cycles carefully past an oncoming cyclist, around a phone box – the third of four points on this cycle route section where there is an inevitable break in the cycle path markings. As he then approaches the fourth and last of these breaks, he pulls out of the marked cycle path to pass another cyclist and get ready to make the turn at the traffic lights. At this point he is stopped and issued with the fine under section 72 of the Highways Act 1835:

"If any person shall wilfully ride upon any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot passengers; or shall wilfully lead or drive any horse, ass, sheep, mule, swine, or cattle or carriage of any description, or any truck or sledge, upon any such footpath or causeway; or shall tether any horse, ass, mule, swine, or cattle, on any highway, so as to suffer or permit the tethered animal to be thereon."

The officer asks Mr Gregory why he does not use the cycle lane. Mr Gregory responds that he thinks the whole pavement is shared use for walking and cycling. This indicates Mr Gregory was not cycling on the footway wilfully, as specified by the 1835 Act.

Poor design and signage

There are several good reasons to support Mr Gregory's claim that he was not cycling on an area specifically set apart for the use or accommodation of foot passengers, including poor and confusing signage, disruptions to the route caused by development of the nearby Heygate Estate and obstructions in the cycle path preventing its usage. .

In particular we note that, during his conversation with the PCSO who issued his Fixed Penalty Notice (FPN), the video shows Mr Gregory pointing to a sign behind the officer. The sign shows a cycle with a red circle (traffic sign 951), indicating the point where the original cycle route had recently been suspended. As soon as the PCSO had completed the FPN paperwork, Mr Gregory shows his awareness that the location where he was fined is supposed to be a shared use area, by recording on his helmet camera that there is a shared use sign on the reverse of this (traffic sign 956). This can be seen in a longer unpublished version of the footage, at <http://youtu.be/XlwuH4SZ2j8>, 12 mins 20-32 seconds.

The failings and inconsistencies of the design and signing of this cycle route are described more fully in a note appended to this letter.

Obstruction

Another reason to believe the whole pavement is shared-use is the difficulty in remaining within the cycle lane for the duration of the journey, due to the poor quality of the cycle lane itself. The cycle lane is two-way, yet very narrow. It is right up against a wall which further reduces the effective, usable width of the cycle lane to a cyclist, due to the risk of catching

your handlebars on the wall's surface. The Government's design guidance on the design of off-road cycle tracks states that "The preferred minimum effective width for a two-way cycle track is 3 metres. These effective widths will need additional clearance where track edge constraints such as kerbs or walls are present."¹ A table later in the document (Table 7.4) shows that the additional width required adjacent to a wall (or other vertical feature more than 600mm high) is an extra 50cm, hence the minimum required for this track should be 3.5 metres. It is in fact merely 2.0m wide [check].

Moreover its surface is cracked and broken, making it uncomfortable to ride on. It is often covered with leaves and so cyclists are often unable to see defects in the surface. Frequently cyclists are forced to move onto the paved area here as pedestrians walk in the cycle lane.

Fixed Penalty Notices (FPNs)

When FPNs for footway cycling were introduced in England and Wales, cycling organisations were assured by the Government that the penalty would be applied fairly and only when cyclists' behaviour put pedestrians at risk. The then Home Office Minister, Paul Boateng MP, confirmed this in writing:

"The introduction of the fixed penalty is not aimed at responsible cyclists who sometimes feel obliged to use the pavement out of fear of the traffic, and who show consideration to other pavement users when doing so. This is not a clamp down on responsible cycling, and I know the police service too do not see it in that way."

In a letter to cycle campaign "Stop Killing Cyclists", the current minister responsible, Robert Goodwill MP, wrote:

"Thank you for bringing the issue of cycling on the pavement around dangerous junctions such as Vauxhall Cross to my attention. I agree that the police should be using discretion in enforcing this law and would support Paul Boateng's original guidance."

It is important to note that by choosing the LCN23 route along the pavement of New Kent Road, Mr Gregory is choosing the only route that helps him avoid the Elephant and Castle junction. This junction is one of the most dangerous in London, having the worst record for the number of people killed and seriously injured at this location.

Following the incident

Following the incident and the public publishing of the video, Cllr Mark Williams, Southwark Council's Cabinet Member for Regeneration, Planning and Transport, took up Mr Gregory's case with the Metropolitan Police and received the following response:

"Thank you again for raising this issue with me. I've now received responses from the Southwark Metropolitan Police Borough Commander, Zander Gibson, and the Mayor's Cycling Commissioner, Andrew Gilligan, about this incident. They have both assured me that over-zealous enforcement at this location will now stop."

¹ Department for Transport, Local Transport Note LTN 1/12 'Shared use routes for pedestrians and cyclists', (www.gov.uk/government/uploads/system/uploads/attachment_data/file/9179/shared-use-routes-for-pedestrians-and-cyclists.pdf), see paragraph 7.38.

Finally we draw your attention to several media publications which have covered this case because they demonstrate the extent to which this prosecution is seen to be contrary to the public interest:

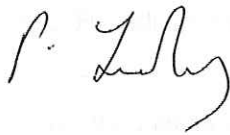
- 'Are the Metropolitan police punishing cyclists for frivolous offences?' Guardian 7/Jul/2014
<http://www.theguardian.com/environment/bike-blog/2014/jul/07/is-the-metropolitan-police-punishing-cyclists-for-frivolous-offences>
- 'London cyclist gets £50 for straying off shared use path blocked by phone box, road.cc 5/Jul/2014
<http://road.cc/content/news/122715-video-london-cyclist-gets-%C2%A350-straying-shared-use-path-blocked-phone-box>
- New Kent Road cycle lane: are police being 'overzealous'? London-se1, 4/Jul/2014
<http://www.london-se1.co.uk/news/view/7687>

For all these reasons, we urge you to consider whether there is a realistic prospect of a conviction in this case, and whether it is in the public interest to proceed with it.

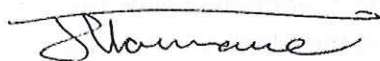
Yours sincerely,



Chris Field, Chair, the Cyclists' Defence Fund



Paul Tuohy, Chief Executive, CTC, the national cycling charity



Jason Torrance, Policy Director, Sustrans



Charlie Lloyd, Campaigns Officer, London Cycling Campaign



Amy Aeron-Thomas, Executive Director, RoadPeace