

Information and advice for bereaved families and friends following death on the road in England and Wales



For more help and emotional support call our helpline

0808 8000 401

or email helpline@brake.org.uk

Go to www.brake.org.uk/support for this pack online

For a children's support book call 0808 8000 401

Introduction

This guide aims to help you if someone close has been killed in a road crash, or if you are caring for someone bereaved in this way. It has been produced by the charity Brake, with funding from the Ministry of Justice and a number of Police and Crime Commissioners across England and Wales.

What to read now

If you have been bereaved in the past few hours or days, turn to the section labelled 'What happens now?' (If you don't feel able to read on right away, ask someone else to read these pages for you.) The rest of this guide provides information and advice on many other issues you may face at different times. The yellow book in the front inside cover provides advice on coping after such a terrible bereavement. An audio version is available at www.brake.org.uk/support.

Who can help you now

For emotional support, information and practical help from Brake and other agencies now or later, contact the Brake helpline on 0808 8000 401 or helpline@brake.org.uk or turn to the section labelled 'Useful organisations'

For information about support you can expect from criminal justice agencies, turn to page 1.

If you need extra copies of this guide for others, call the Brake helpline on 0808 8000 401.

This guide is also online at www.brake.org.uk/support.

The online version contains hyperlinks to the websites referred to in this guide.



Contents

Your contacts and notes

1- 12

What happens now?

What happens to a loved one's body 13-15

Return of belongings 16

What happened in the crash 17-19

Criminal investigations and charges

The police investigation 33-35

The Crown Prosecution Service and your right to be heard 36-37

Charging someone 38-39

Criminal offences 39-50

Practical issues

Informing people 20-21

Burials or cremations 22-24

Legal issues 25

Personal finance 26-27

The media 27-30

Memorials 31

If the crash happened abroad 32

Contents

Court cases

Attending court 51-53

If you are asked to be a witness 54

Court procedures 55-59

Verdicts and sentencing 59-61

Appeals 62-63

Prisoner release 64-66

Coroner investigations and inquests 67-70

Having your say about criminal justice 71-73

Can I claim compensation?

Can I claim compensation? 74

Hiring a solicitor 74-76

Paying your solicitor 77

Types of compensation 78-79

Fatal motor claim procedures 80-82

Useful organisations 83-88

Other Brake guides

Brake produces other free guides which may help you, depending on your circumstances:

- *Someone has died in a road crash* (book for children and their carers)
- *Information and advice for bereaved families and friends following death on the road in Scotland* (if the crash happened in that country)
- *Information and advice for bereaved families and friends following death on the road in Northern Ireland* (if the crash happened in that country)
- *Information and advice following a serious injury in a road crash* (online only)
- *What happens in an Intensive Care Unit?* (online only)

You can view these guides online at www.brake.org.uk/support or call the Brake helpline on 0808 8000 401 to request copies to be sent to you.

Your contacts and notes

Your contacts

You can use the space below and overleaf to record names and phone numbers of people you may want to talk to over the coming weeks and months.

Your right to support from criminal justice agencies

It is best practice for the police to assign a Family Liaison Officer (FLO) to you. An FLO is a police officer trained to help bereaved people with procedures immediately following the crash and during the police investigation. If you are not assigned an FLO, ask if this is possible. Whether or not your police contact is an FLO, they should be able to help you with immediate things such as seeing a loved one's body and answering, where possible, questions you have about the crash. Your police contact should also be able to keep you informed of the police investigation and any court dates and help you manage any contact with the media (see pages 28 and 29).

Your entitlement to support from the police and other criminal justice agencies is outlined in the Government's *Code of Practice for Victims of Crime (2015)*.

Police guidelines called the Authorised Professional Practice (APP) also state that the police should provide you with the pack you are reading now and tell you about the Brake helpline, which you can contact for additional specialist support on 0808 8000 401. Police standards when liaising with you are also laid out in the *Family Liaison Officer Guidance*.

All three guidance documents can be downloaded from www.brake.org.uk/support or ask your police contact.

Your police contact

Police contact name

Station phone number

Mobile number

Times they can be contacted

Email

If you wish, your police contact may be able to tell other people about a death for you.



Police officer in charge of the investigation

(Senior Investigating Officer)

Name

Phone

Email

Coroner's office (see page 67)

Name

Phone

Email

Hospital or mortuary staff

Name

Phone

Email

Funeral organiser

Name

Phone

Email

Witness Care Unit

Name

Phone

Email

Solicitor helping you with a compensation claim (see page 74)

Name

Phone

Email

Charities and other organisations helping you

(see page 83 for contact details)

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Health professionals helping you (see the enclosed yellow book, *Coping with grief*, for information on how to get this help)

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Faith or spiritual leader

Name

Phone

Email

You may wish to use the blank pages that follow to write down questions you want to ask and information you have been told by these people and others.

It's also helpful to keep copies of any letters or documents you receive in a safe place.

Lined area for notes.

Series of horizontal dotted lines for writing notes.

A series of horizontal dotted lines for taking notes, spanning the width of the page.

Dotted lines for writing notes.

What happens now?

What happens now?

What happens to a loved one's body

Seeing a loved one's body	13
Post-mortem examination	14-16
Return of a loved one's personal belongings	16

What happened in the crash

Visiting the crash site	17
How did a loved one die?	17
Why did the crash happen?	18
What happens to a vehicle involved in the crash?	19

Organ or tissue donation

You may or may not want to consider donation of organs or tissue from a loved one's body to help others live. Donation of most organs is only possible if a loved one died in hospital, but donation of tissue or eyes may be possible after a death at the roadside.

If you want to consider it, but haven't been contacted by medical staff, you need to act quickly – usually within 24 hours although sometimes up to 48 hours after the death. For organ donation call 0300 123 23 23. For tissue donation call the Tissues National Referral Centre on 0800 432 0559.

If someone died in England

If the person who died had expressed their wish to donate by joining the NHS Organ Donor Register, then medical staff will not legally need anyone's consent to do this. An organ or tissue donation nurse will still want to talk to close relatives to make sure they support their loved one's decision.

If someone died in Wales

If the person who died was living in Wales, then there is a "presumed consent" organ donation system. Unless they had registered to "opt-out" of organ donation, saying they didn't want to donate after death, it will be assumed they want to be a donor. An organ or tissue donation nurse will still want to talk to close relatives to make sure they support donation.

Organs or tissue are removed with care and do not delay burial or cremation arrangements. You can still see a loved one's body afterwards if you choose.

For more information about organ and tissue donation, go to www.organdonation.nhs.uk

Seeing a loved one's body

After someone dies suddenly or unexpectedly, their body is taken to a hospital mortuary or a local authority mortuary.

You can decide whether or not to see a loved one's body. To help you make this decision, and if you didn't see a loved one in hospital or at the roadside before their death, you can ask your police contact or medical staff to tell you about injuries to a loved one's body and what their body looks like.

Sometimes, the bodies of people killed in road crashes have few visible injuries because injuries are internal. Sometimes bodies are very badly damaged. If a body is badly damaged, medical staff may cover the most damaged areas with a sheet. You can ask which areas of a body will be covered or uncovered. Sometimes the whole body is very badly damaged. Sometimes a body is a different colour, due to internal bleeding or bruising.

You may choose to see a loved one's body to say goodbye. Or you may choose to remember someone as they were. The decision is yours. You can take your time to decide. If a loved one's body is in a hospital, there may be a bereavement officer or hospital chaplain who can support you at this time. You can ask if this support is available.

Touching a loved one's body

If you decide to see a loved one's body, you may wish to touch their body. If you want to do this, talk to your police contact or medical staff. Sometimes, bodies of people killed in road crashes are very delicate because they are damaged, or bodies should not be touched for reasons to do with a police investigation. If you touch a loved one's body, it may help to remember their body will feel cold.

Identifying a loved one's body

The police sometimes require a family member to identify a person who has died. If the police ask you to do this, they may ask you to identify your loved one's body or identify them from their belongings. If you do not want to see a loved one's body but you are asked to identify their body, ask the police if there is anyone else who could do this for you. Alternatively, you may be able to identify the body through an internal glass window (at the mortuary), or by photograph or by video recording. In rarer instances, a body is harder to identify due to injuries sustained. In this case, police may ask you to help identify a loved one through dental records or by providing a sample of their DNA (for example, from a hairbrush or toothbrush).

Post-mortem examination

After someone dies on the road, there is likely to be a post-mortem examination of their body. This is a medical examination to determine the cause of death. A post mortem includes examination of body organs, tissues and fluids and is carried out by a specialist doctor called a pathologist.

A post-mortem examination is carried out on behalf of the coroner. The coroner is a special judge who investigates all sudden deaths (see page 67). The coroner does not need your permission to carry out a post mortem but you can ask the coroner's office to explain why they think it is necessary.

Usually the coroner asks the pathologist to open and examine inside the body. The body is then closed again. This is called an invasive autopsy. Some people have objections, for faith or other reasons, to an invasive autopsy. If you have objections, or concerns about the way it will be carried out, you should tell the coroner's office or your police contact as soon as possible so they can take into account your views. Alternatives to invasive autopsy are not widely available, but sometimes a body can be scanned instead. Scans do not physically damage the body. If you request a scan, you may be asked to pay a fee.

Usually a post-mortem examination includes toxicology tests. This means that the pathologist takes samples of blood and urine, and possibly other samples such as stomach contents, fluid from an eye and pieces of tissue, to find out if they contain any toxic substances, such as alcohol or drugs. These tests may take place instead of, or in addition to, an invasive autopsy or scan.

Your police contact can tell you how to get in touch with the coroner's office. You can write their contact details on page 2.

Representation at a post-mortem examination and second post mortems

You are legally entitled to be represented by a medical professional during a post-mortem examination. Your representative could be a GP or another pathologist of your choice. If you have told the coroner that you wish to be represented, your police contact should tell you when and where the post-mortem examination is taking place.

If you are not satisfied with the information you receive about the cause of death, you may be able to ask for a second post-mortem examination, carried out privately for you by a pathologist of your choice, and funded by you. This requires the agreement of the coroner.

If you have a solicitor (see page 25) they will be able to instruct a pathologist on your behalf and advise you of the cost.

In some instances a second post-mortem examination may be carried out on behalf of someone who is accused of a criminal offence in connection with the death. This requires the agreement of the coroner.

Organ or tissue samples

Most post-mortem examinations involve taking small tissue samples, known as 'tissue blocks'. These are less than six millimetres thick and are embedded in wax or resin. From them, very small amounts of tissue, thinner than a hair, are placed on glass slides so they can be examined under a microscope. These slides help confirm the cause of death. Taking tissue samples does not disfigure a body. A pathologist may need to retain an organ temporarily, so they can examine it closely. The nearest relative will be informed.

After the post-mortem examination you can decide if any retained tissue or organs should be reunited with the body, which may mean you have to delay a burial or cremation. You can proceed with a burial or cremation earlier and arrange for any retained tissue or organs to be disposed of by the pathologist in a respectful way. Your police contact should explain these options to you and discuss what you want to do. Sometimes medical staff want to keep tissue samples for research, education or training purposes. They can only do this with the agreement of the person who died (if they were an adult) or their nearest relative.

The law on organ and tissue retention is explained in the Human Tissue Act 2004, available to download at www.brake.org.uk/support. The coroner or the pathologist can provide more information about your case.

Delays to a burial or cremation

A burial or cremation can only take place once the coroner has given permission for the body to be released. To find out how long a post-mortem examination will take, or if you have objections to a burial or cremation being delayed, talk to the coroner's office or your police contact.

The post-mortem examination report

You are entitled to a copy of a loved one's post-mortem examination report, usually for free. You may or may not want to see it. The coroner's office can arrange for it to be sent to your GP who can help explain it. A pathologist may also be able to meet with you at their offices to discuss the report. Sometimes you cannot have the report until after any criminal proceedings are finished.

If a loved one died before emergency services reached them, the pathologist may be able to tell you information, if you want to know, regarding your loved one's death, for example how fast they lost consciousness.

Return of a loved one's personal belongings

The police, hospital officials or mortuary staff may be holding personal belongings of a loved one who has died, such as a bag, mobile phone, clothes or jewellery. You can ask if they are holding any belongings. You may decide you want all, some or none of them returned. If you are using a funeral director, you can ask them to collect any personal belongings for you when they collect the body.

Personal belongings, particularly clothes, are often damaged or blood-stained in crashes. Before deciding if you want certain belongings, you may want to ask about the condition of them.

If you want something returned that has been blood-stained, you can choose whether you want it returning just as it is, or cleaned first. Some people don't want a loved one's clothes cleaned because the clothes may carry the smell of that person. Some clothes may be very badly damaged and you may want them cleaned or not returned at all. The police may or may not charge you a fee for any cleaning you want them to do.

If a loved one who has died was in a vehicle, you can ask your police contact to check if any belongings are still in that vehicle (for example, in the boot or glove compartment of a car) and ask for these to be returned to you.

Sometimes belongings are kept temporarily by the police because they need them as evidence as part of their investigation. Once the police investigation and any resulting criminal prosecution is finished, these belongings can be returned if you want them. Belongings should not be disposed of by police, medical or mortuary staff without consent.

A police manual called *Family Liaison Officer Guidance* advises the police to consult with you about the return of belongings. You can view this guidance at www.brake.org.uk/support.

Many people treasure the smell of a loved one who died. You may wish to preserve their smell for a while by storing clothing they recently wore in an odour-free zip-locked bag.

Visiting the crash site

If you were not in the crash, you may or may not want to visit the place it happened. If you want to visit, your police contact can tell you the precise location if you do not know it and tell you any dangers such as parking problems, lack of pedestrian access or fast traffic. They may be able to accompany you to ensure your safety and answer questions you may have about the site.

If the crash site is far away and not accessible by public transport, your police contact or someone else may be able to drive you there. You may want them to do this if you do not drive, do not feel able to drive because of the shock, or you can't drive because your vehicle was damaged in the crash.

You may or may not want to place flowers or something else at the crash site. See page 31 for information on roadside memorials.

How did a loved one die?

If you were not in the crash yourself, you may or may not want to know the details of how a loved one died. You may want to know about medical treatment given at the roadside or in a hospital, and whether a loved one said anything or was unconscious during this time.

Sometimes it is possible to meet and talk to people who provided help at the crash site, such as a paramedic or a fire officer, or members of the public who provided first aid. If you want to do this, your police contact will be able to find out if this is possible. Alternatively, your police contact may be able to ask these people questions on your behalf.

If a loved one died in hospital you can ask to talk to doctors or nurses who provided treatment. The Patient Advice and Liaison Service (PALS) can help you

do this. You can contact this service through a hospital switchboard. Alternatively, your GP may be able to find out about treatment given and explain it to you.

You can also, if you are the next of kin, get a copy of a medical report prepared by the hospital on treatment given. This can be requested by you or your solicitor (see page 25) and there may be a fee. This report may use medical terms unfamiliar to you, so you may want to ask a hospital doctor or your GP to explain it to you. You may not be able to get full details of treatment until after the coroner's investigations into the death are finished.

If you have a concern that a hospital treated your loved one inadequately, you may wish to consult a personal injury solicitor (see page 74). In some cases, a medical negligence claim can be brought.

Why did the crash happen?

It is common to want to know straight away what happened and who was involved.

The police will carry out an investigation into the crash and collect evidence (see page 33). If it appears that someone may have committed an offence, criminal charges may then be brought (see page 36). You can ask your police contact questions and seek information from them at any time during their investigation.

If a solicitor is working on your behalf to find out if you can claim compensation (see page 74) they will need information from the police (including names of people involved, witness statements, and evidence such as photographs). It is important that your solicitor requests and gets information as soon as possible.

The Crown Prosecution Service (the agency that brings prosecutions) has guidelines saying information should be released promptly. However, in some cases, for legal reasons, some information may not be released until after an investigation or a prosecution has happened.

The Crown Prosecution Service guidelines on 'disclosure of material to third parties' are part of its guiding documents called Prosecution Guidance. This can be read online at www.cps.gov.uk.

What happens to a vehicle involved in the crash?

If a person who died was in a vehicle or on a motorbike or bicycle, it should be taken away for examination by the police along with any other vehicles involved in the crash. The police examine vehicles involved in fatal crashes to find out if they were mechanically defective, and to get more information about what happened in the crash.

Vehicles may be kept until the end of the police investigation and any resulting criminal prosecution. Sometimes the police have to take vehicles apart to find out what happened. Your police contact can tell you where vehicles are being stored and what is happening to a vehicle. If you were not in the crash, you may want to see a vehicle. You can ask your police contact to arrange this. Many vehicles involved in crashes are very badly damaged, although some are not. Ask your police contact to tell you in advance what a vehicle will look like.

You can pay for an independent examination of a vehicle if you or your solicitor (see page 25) think this is necessary. If you wish to do this, tell your police contact. A list of crash investigators is available from the website www.itai.org.

You can ask your police contact questions at any time during the police investigation. They may not have much information at first and may not be able to tell you certain things until their investigation is complete, but should tell you as much as they can.

Practical issues

Practical issues

Informing people

Registering a death	20
Talking to motor insurers	20
Telling others	21

Burials or cremations

Arranging a burial or cremation	22
Using a funeral director	22-23
Burial grounds and ashes	23
Coffins and shrouds	23
Paying for a burial or cremation	24
Direct funerals or cremations	24

Legal issues

Hiring a solicitor	25
Wills	25

Personal finance

Benefits	26
Financial issues	26
Stopping unwanted mail	27

The media

Social media	27
Your case in the media	28
Police help with the media	29
Choosing a photo or home video	29
Being interviewed by a journalist	30
Making a comment or complaint about the media	30

Memorials	31
------------------	-----------

If the crash happened abroad	32
-------------------------------------	-----------

Registering a death

Unless a death on the road was due to natural causes, you don't have to register the death yourself. This will be done by the coroner, who is responsible for investigating violent or unnatural deaths (see page 67). The coroner will register the death once their investigation is completed.

Once the death has been registered, you can obtain a certified copy of the entry in the register, which is called a 'death certificate', from the Registrar. Local authorities can give you contact details for a Registrar.

You may need a death certificate sooner than this, for example to enable you to move money between bank accounts or claim benefits (see page 26). In this case, the coroner should give you an 'interim' death certificate, which is called a 'certificate as to fact of death'. This is free.

For information on how to contact the coroner so you can ask for this certificate, or find out when a death will be registered, see page 67.

Some organisations will ask for an original copy of a death certificate. It's a good idea to order as many copies of a death certificate as you think you will need. It may be more expensive to order extra copies at a later date.

For general advice from the government on what to do after a death, go to www.gov.uk and enter the word 'death' into the search box.

Talking to motor insurers

If a person who died was driving a vehicle then you, or someone on your behalf, needs to tell their motor insurer that they have died. The police can give you basic details that the motor insurer needs, such as the details of another driver. You do not have to tell the motor insurer what happened in the crash. You only need to say that the crash is being investigated by the police (see page 33).

The motor insurer may offer you a solicitor to help you find out if you have a compensation claim. It is up to you whether you choose this solicitor or a different solicitor. See pages 74 to 76 for important advice on choosing the right solicitor for you.

Whether or not a person who died was driving a vehicle, you are advised to consult a solicitor of your choice as soon as possible. It may be possible, at no cost to you, to make a significant claim for compensation from the motor insurer of a vehicle that contributed to the crash (see pages 25 and 78).

At any stage you may be contacted by the other side's motor insurer, offering you money in settlement for any compensation claim you may have. If this happens, you are strongly advised not to accept this money. Do not sign any forms they send you. A settlement they offer may be lower than the amount that a solicitor could obtain for you.

Telling others

There may be people other than relatives and friends who may need to be told about a death quite soon. You can choose to tell these people yourself or ask someone to do it for you. These people may include:

- employers (if you are employed you may be entitled to immediate bereavement leave or be given permission to take your holiday entitlement now; some employers and trade unions also have benevolent funds that provide support to families of employees who have died);
- school, college or nursery (teachers can provide valuable support);
- life insurance and pension companies (the sooner you inform these companies, the sooner you can go ahead with any possible claims from these plans);
- bank or building society;
- mortgage or loan provider;
- landlord;
- housing department or housing association (if a person who died was living in social housing);
- utility providers (for example, gas, electricity and phone), particularly if a person who died lived alone;
- benefit providers (see page 26);
- HM Revenue and Customs (if a person who died paid tax);
- Passport Office (if a person who died had a passport);
- DVLA (if a person who died had a driving licence);
- social clubs that a person who died attended.

Some local authorities provide a 'Tell Us Once' service where they will pass information about the death to other government organisations on your behalf, so you don't have to inform lots of different people. When you register a death, the registrar should tell you whether the service is available in your area and give you a unique reference number that you will need to use the service. You can visit your local authority website to see if this is available in your area, speak to your coroner's office or registrar, or go to www.gov.uk and search for 'Tell Us Once'.

Arranging a burial or cremation

Burial or cremation can take place once a coroner has given permission for the body to be released (see page 15). Arrangements for a body to be buried or cremated, and arrangements for any funeral service or gathering in their memory, are usually overseen by a close relative. If you are the person making arrangements, consider any instructions that the person who died left in a will (see page 25) or elsewhere, or told anyone. You may also want to consult other people who were close to the person who died. A cremation can only go ahead if close relatives do not object. If the person who died followed a religion, there may be religious practices to follow.

Making decisions at this time can be hard. You may find it easier to make decisions and share tasks with other close family or friends. People in the same family sometimes have different or strong views on what should be done. Discussing options and making decisions together can help.

Alternatively, you may choose to let someone else make decisions. Some people hold more than one memorial event, so everyone gets an opportunity to say goodbye in a way that has meaning to them.

You, or someone else responsible for the dead person's estate, are responsible for ensuring the cremation or burial happens, and deciding how. This means that, as long as you choose a legal method, no-one (including friends, family, a faith leader or a funeral director) can compel you to do it in a particular way.

Using a funeral director

Many people arrange a burial or a cremation with the help of a funeral director. A funeral director's services usually include, among other things, looking after the body prior to burial or cremation, arranging for you to view a loved one's body, providing you with a choice of coffins, shrouds or urns to buy, liaising with the burial ground or crematorium on your behalf if necessary and transporting the body.

If you decide to use a funeral director, and are considering which one to use, you may want to choose one who is a member of an association and follows a code of practice. The following associations provide lists of members:

- National Association of Funeral Directors
T: 0121 711 1343 W: www.nafd.org.uk and www.funeral-directory.co.uk
- National Society of Allied and Independent Funeral Directors
T: 0345 230 6777 or 01279 726 777 W: www.saif.org.uk

- The Good Funeral Guide
W: www.goodfuneralguide.co.uk

Some people choose not to use a funeral director because they want to manage arrangements themselves. Some people choose to use a funeral director only for certain things, such as looking after the body or helping with the paperwork that needs to be completed after a death. You can get advice on managing arrangements yourself from the charity the Natural Death Centre. Go to www.naturaldeath.org.uk or call 01962 712 690.

Some people choose not to use a funeral director because arrangements are being managed by a faith leader.

Burial grounds

Your local authority or funeral director can provide you with lists of local cemeteries and church graveyards. Some burial grounds may already be full. The person in charge of a burial ground can tell you.

There are also an increasing number of woodland and meadow burial grounds. These are run by local authorities, private landowners and wildlife charities and provide a natural setting for burial, while also using the land to grow plants and encourage wildlife. The Natural Death Centre (see above) provides a list of these.

Ashes

If your loved one's body is being cremated, then their ashes can be scattered in a place of your choice or garden of remembrance, buried in a cemetery or graveyard, or kept by you. You need to get permission from any landowner before making arrangements to scatter or bury ashes.

Coffins and shrouds

Bodies can be placed in coffins made from a range of materials, including cardboard. The body can alternatively be wrapped in a shroud before being buried or cremated. You can buy coffins and shrouds from a funeral director, over the internet or make your own. There are rules governing the covering of bodies. If you are not using a funeral director, you can get advice from the Natural Death Centre (see above).

The websites www.funeral-directory.co.uk, www.yourfuneralchoice.com and beyond.life compare prices and services of funeral directors in your area.

Paying for a burial or cremation

You may be able to get help paying for all or some of the costs of a burial or cremation if:

- you are on a low income and receive certain benefits. (Ask your local Jobcentre Plus office as soon as possible whether the government can help you pay. You can also find information on www.gov.uk by searching 'funeral payment');
- the person who died was signed up to a scheme providing payment for such costs. This scheme could be part of an employment package, a personal pension plan, or an insurance plan;
- the person who died had paid in advance for their own burial or cremation through a payment plan. Some credit union accounts also make a payment towards funeral costs when the account holder dies. (Some payment plans may only pay for the use of a particular funeral director.)

If you aren't eligible for this help, you should still keep receipts of costs in case you can claim them back later. You may be able to do this if someone is found to have been responsible for a death as part of a claim by you for compensation (see next page and page 74).

Direct funerals or cremations

One option for reducing the cost of a funeral is a burial or cremation without any mourners present. This is sometimes called a 'direct' funeral or cremation. The funeral director makes arrangements with the crematorium or burial site, collects the body, and returns ashes from the crematorium in an urn. Many people who choose this option still have a memorial ceremony, but hold it on a different day, later on.

A funeral director should be able to advise you on ways to lower the cost of a burial or cremation. The Natural Death Centre lists funeral directors specialising in direct funerals. Call 01962 712 690 or go to www.naturaldeath.org.uk.

Hiring a solicitor

Many people bereaved by a road crash benefit from hiring one or more solicitors as soon as possible. The earlier you consult a solicitor, the sooner they can consider your case and the greater the chance they will be able to help you. An initial consultation with a solicitor should be free.

Different solicitors specialise in different areas of law. A personal injury solicitor is the best person to advise you on whether you can claim compensation and pursue any claim for you (see page 74). Sometimes a lot of money can be claimed, so it is important to find out. You may also need advice from a solicitor specialising in wills. Depending on your circumstances, you may also need specialist advice regarding issues around an inquest, a post-mortem examination, a criminal case, or a death that happened abroad.

It is important to use solicitors experienced in the right areas of law. A solicitor who has helped you before, for example to buy a house, may not be the best solicitor for you now. See pages 74 to 76 for advice on contacting solicitors specialising in road death and personal injury claims, and below for advice on contacting a solicitor specialising in wills.

Wills

If you are the next of kin of an adult who has died, or you have been appointed as their representative, you need to find out if they made a will. Copies of wills may be held by a bank or solicitor or may have been deposited with the Probate Service. For more information go to www.gov.uk and search for 'probate'.

A will appoints a person or people (known as an executor) to administer a dead person's estate (everything they owned). It also gives instructions on how possessions and money should be distributed and may also include instructions about their burial or cremation and any funeral arrangements. Wills can be complicated. Sometimes there is no will. Whether or not there is a will, a specialist solicitor can give you advice on what you need to do. STEP provides details of solicitors who specialise in wills. Go to www.step.org or call 020 3752 3700.

If you need advice about a will but cannot afford a solicitor, contact your local Citizens Advice office (www.citizensadvice.org.uk) or law centre for free advice. To find your nearest law centre, go to www.lawcentres.org.uk.

Benefits

Some people qualify for benefits after being bereaved. You may be able to claim benefits for all sorts of reasons, for example if a partner has died, or you are bringing up children on a low income.

If a person who died was claiming benefits or a state retirement pension, or you were receiving benefits for them, you need to let their benefits office know about the death.

To find out if you can claim any benefits, visit www.gov.uk and search for 'benefits'. You can also contact your local Citizens Advice service for free advice (www.citizensadvice.org.uk).

Financial issues

Many people find their bereavement causes financial issues; for example if a person who died was working and provided income. Some bereaved people struggle to pay bills at this time.

Some bereaved people also find they are managing finances for the first time, because this was a task undertaken by a person who died. Understanding finances that someone else previously managed can be challenging, particularly at such a difficult time.

The following organisations can give advice:

Charities offering advice:

- StepChange Debt Charity (0800 138 1111 or www.stepchange.org)
- National Debtline (0808 808 4000 or www.nationaldebtline.org)
- Citizens Advice Adviceline (England 03444 111 444, Wales 03444 77 20 20 or www.citizensadvice.org.uk)

Government-established advice service:

- MoneyAdvice Service (0800 138 7777 or www.moneyadvice.service.org.uk)

If you are pursuing a claim for compensation, it is sometimes possible to obtain an early partial payment, to help with immediate financial needs. Your solicitor can advise you (see page 73).

Stopping unwanted mail

You may find it upsetting to receive junk mail, email or sales calls for someone who has died. One way to reduce the chance of this is to register, for free, with The Bereavement Register. Call 0800 082 1230 or go to www.thebereavementregister.org.uk. You can also register with The Bereavement Register by completing the form inserted in the back inside cover of this pack.

You can also stop unwanted sales calls, mail and faxes by registering with:

- Telephone Preference Service (0345 070 0707 or www.tpsonline.org.uk)
- Mailing Preference Service (0207 291 3310 or www.mpsonline.org.uk)
- Fax Preference Service (0345 0700 702 or www.fpsonline.org.uk)

The above services may not stop all unwanted correspondence, but will reduce the chance of it happening.

Social media

Communicating with friends, family or colleagues through social media (such as Facebook and Twitter) is an important part of many people's lives. You may find comfort and support through your use of social media at this time.

It is important not to make comments publicly on websites that could create problems for a police investigation, a criminal trial or a compensation claim. If you wish to discuss such things with people who are close to you, it is safest to do so only through private messaging or email.

There are many websites that encourage people to state their views on public forums (for example, on news websites). These forums often contain a variety of views, some of which may not be sensitively worded nor fair comment.

They may contain incorrect information. A driver who has caused a crash may also post things on their own social media accounts that you may find upsetting. For your wellbeing, you may choose to avoid sites which could contain insensitive posts or incorrect information, and only visit places on the internet where you feel safe, supported and can trust what you are reading.

If you feel you are suffering online harassment, for example threats to harm you physically, talk to the police.

Your case in the media

Journalists from newspapers, or radio or TV programmes, often want to cover crashes and court cases. You cannot stop the media from reporting on your case or publishing your name and where you are from. Journalists may publish or broadcast stories about your case without talking to you, or they may phone you, knock on your door, or approach you at a court hearing for a comment. They may ask you for a photograph or home video of someone who has died. They may ask to interview you or photograph you.

Different people feel differently about the media. You may feel grateful for media coverage, or dislike it, or feel disappointed that there isn't more media coverage. It is up to you whether you talk to journalists or not.

You may decide to talk to journalists to help raise awareness of road safety, or to help find witnesses to the crash. You may find that you prefer to talk to some journalists but not to others. You may decide not to talk to journalists for personal reasons.

If you aren't contacted by journalists but want media coverage, you can contact them. You can ring up, email or write to journalists. Alternatively, your solicitor (see page 25) or the police (see next page) may be able to help you liaise with journalists.

Ask your police contact or your solicitor (see page 25) if there is anything you shouldn't talk about to journalists. If someone is accused of causing a death, it is important not to make comments that could create problems for a police investigation, a criminal trial or a compensation claim.

Police help with the media

The police can often help you to manage your relationship with the media, particularly in the first few days after the crash or around any court case.

A police manual called *Family Liaison Officer Guidance* says police should work with you to develop a 'media strategy' that takes into account your views on media coverage. You can download this manual at www.brake.org.uk/support.

The police often release their own media statements about crashes and resulting court cases to the media, and will be able to give these to you. Your police contact should be able to pass on to the media any written statement you want to make, any photograph you want to see published or home video you want broadcast. In some cases, the police also organise press conferences for bereaved families. This might happen at the end of a court case, or to appeal for witnesses.

Choosing a photo or home video

When choosing a photo or home video of someone who has died to pass on to the media, you may wish to consider how they might have wanted to be remembered. Your police contact can arrange for a photo to be altered if necessary – for example, taking a loved one's image from a group photo.

A few families have given the media a photo of a loved one's dead body, or of them critically ill in hospital before they died. They have done this as part of an appeal for witnesses or to explain to the public the horrors of road crashes. You can ask the media to use a photo for a specific purpose and on just one occasion, accompanied by specific words from you, and then ask for the photo not to be used again.

If you would like a photo to be used on just one occasion, you should agree this with the journalist who contacts you, before the photo is used. It is advisable to have a record of this agreement, for example by asking the journalist to email you, or asking the journalist if you can record their verbal agreement on your mobile phone.

You can release a photo to just one journalist or lots of journalists. Your police contact may be able to help.

You are advised not to give original photos or home videos to the media in case they lose them. Newsrooms can be hectic, messy places. The police should be able to make copies for you.

Being interviewed by a journalist

Being interviewed by a journalist can be hard, particularly if they are a stranger and they want you to talk about how you feel. It can be particularly hard to do interviews that are being broadcast on radio or TV. If you decide to talk to a journalist, it can help to ask in advance what questions they want to ask, and to think what you might want to say. If you are doing an interview at a radio or TV station, you might want to take a friend for support, or if you would prefer, ask for the interview to be done at your home.

Making a comment or complaint about the media

If you are unhappy with a journalist's conduct or think that a journalist has published or broadcast something that is incorrect or unfair, you can make a complaint to the relevant publication or TV or radio station.

If you are complaining about a publication, address your complaint to the editor and publisher. If you are complaining about a TV or radio station, address your complaint to the director. Sometimes the media offers to print or broadcast an apology. A newspaper or magazine may offer to print a letter from you.

Journalists are governed by national codes of practice that require them to respect the privacy and feelings of bereaved people.

- The Independent Press Standards Organisation (IPSO) regulates the Editors' Code of Practice, a set of rules that newspapers or magazines who are members of IPSO must follow. To read this code and find advice about dealing with media attention, or complain if you think a journalist has broken this code, go to www.ipsco.co.uk. IPSO can help with unwanted press attention or harassment concerns and has a 24-hour helpline 07799 903 929.
- The Ofcom Broadcasting Code governs TV and radio journalists. To read this code and make a complaint if you think a journalist has broken this code, go to www.ofcom.org.uk or call 0300 123 3333.

Some people bereaved by a road crash wish to campaign for road safety. Pages 83 and 84 give details of organisations that can help you do this.

Roadside memorials

Some people bereaved in road crashes wish to place flowers and other things at the place where a loved one has died, in their memory. Some people see this as an important expression of their grief. You may or may not want to do this.

Many local authorities allow small temporary memorials such as flowers and cards. Some local authorities grant permission for small permanent memorials, such as a plaque on a grass verge or, depending on the location, larger memorials such as a bench. However, some local authorities may not allow roadside memorials, and some may even restrict the length of time that flowers can be placed at the site of a crash.

If you want to seek permission for a roadside memorial, you need to talk to the highways department of the relevant local authority to find out what they allow.

You may want to ask someone else to talk on your behalf to your local authority about roadside memorials. The Brake helpline can do this for you. Your solicitor, police contact, or another support agency may also be able to help.

If cards or notes are placed by other people, you may want to ask your police contact to retrieve them after a period of time and give them to you.

Website memorials

Some people bereaved in road crashes decide to have a website in memory of a person who died, and publish memories, poems, messages, pictures or videos on this website. There are several organisations dedicated to providing this service for you, including ones that are free or low cost. You can ask a funeral director about these services. The Brake helpline can also put you in touch with these services, call 0808 8000 401.

If the crash happened abroad

If a loved one died abroad, there may be many added complications, such as different legal procedures or a language barrier.

The Brake helpline works with the Foreign & Commonwealth Office (FCO) to provide emotional and practical support to families and friends in the UK of anyone killed in a road crash abroad.

If you have been in touch with the FCO you should have been offered Brake's support. If not, you can contact the helpline on 0808 8000 401 (Monday-Friday, 10am-4pm) or email helpline@brake.org.uk.

You can also ask for support from FCO Consular staff based at British Embassies, High Commissions and Consulates overseas, and in London in the Consular Directorate of the FCO.

These officials can:

- give you information about burial or cremation in the country in which someone died, or information about transporting the body and personal belongings back to the UK;
- advise you how to register a death in the country where the person died;
- help you transfer money from the UK to pay costs;
- offer basic information about the local police system and legal system, including the availability of any legal aid;
- provide you with details of local lawyers, interpreters and funeral directors.

FCO staff cannot investigate deaths abroad nor give legal advice. If you have concerns about legal issues, a solicitor with experience of dealing with deaths abroad can advise you (see page 25).

Foreign & Commonwealth Office (FCO) guidance called *Support for British nationals abroad: A guide* explains what support is available to family and friends if a loved one died abroad. This guidance is available online at www.gov.uk/government/publications/support-for-british-nationals-abroad-a-guide.

If the person who died had travel insurance, it is advisable to contact the insurer as soon as possible, in case there is a possibility of a claim.

Criminal investigations and charges

Criminal investigations and charges

The police investigation

Giving a statement	33
Physical evidence	34
Medical evidence	34
If the crash involved someone driving for work	34
The police report	35

The Crown Prosecution Service and your right to be heard

The Crown Prosecution Service	36
Meeting the Crown Prosecution Service	37
Victim Personal Statements	37

Charging someone

Charging someone and the possibility of bail	38
Changes to charges	39

Criminal offences

Causing death by dangerous driving	40
Causing death by careless or inconsiderate driving	41
Causing death by careless driving when under the influence of drink or drugs	42
Causing death by driving: unlicensed or uninsured drivers	43
Causing death by driving: disqualified drivers	43
Murder and manslaughter	44
Wanton or furious driving causing bodily harm	44
Corporate manslaughter and corporate homicide	45
Gross negligence manslaughter by company employees	45
Aggravated vehicle taking	46
Failing to stop or report an accident	46
Killing someone by using a defective vehicle	47
Charges that do not mention death or injury	48
Driving otherwise than in accordance with a licence	49
Driving while disqualified	49
Driving without insurance	50
Aiding and abetting	50
Bringing a private prosecution	50

The police investigation

A death on the road is investigated by the police. The police have a duty to try to find out what happened by gathering evidence. A police investigation can take several months.

Giving a statement

The police may take statements from a number of different people. If you were involved in the crash, you saw the crash, or you saw vehicles before or after the crash, you may be asked to give a statement. If you were not involved in the crash, but knew the movements of a loved one on the day they died, you may be asked to give a statement too. If you give a statement, the police will write down and may record what you say.

If you have made a statement, a lawyer, or more than one lawyer, may want to interview you too. This is an essential part of the investigation and helps lawyers understand the evidence you are providing. Your contact details remain confidential - they cannot be given to someone accused of a crime.

It may be possible for a relative or friend to attend an interview with you to offer support. If you want to be accompanied ask if this is possible. If you have particular communication needs you may also be entitled to assistance from an interpreter or intermediary (someone who helps communicate to you questions the police ask, and communicate back your answers).

The police may also offer you the opportunity to make a Victim Personal Statement (see page 37).

If you give a statement, you may or may not be required, at a later date, to give evidence in court. See page 54 for information about giving evidence in court and support to help you do this.

Physical evidence

Crash investigation officers, who are usually specially-trained police officers, or employees of other specialist agencies, investigate a crash in order to identify the cause and obtain evidence. These experts may photograph, measure and video the scene of a crash and examine vehicles involved (see page 19). They may examine belongings of people in the crash, such as mobile phones.

Medical evidence

Medical evidence may be provided by personnel who tended to a loved one at the crash or in hospital, and by the pathologist who did the post-mortem examination (see page 14). Medical evidence can include alcohol and drug tests on drivers involved.

If the crash involved someone driving for work

If the crash involved someone driving for work, the Health and Safety Executive (HSE) may get involved in the investigation. HSE inspectors aim to identify any failure by an employer to ensure effective health and safety procedures were in place and followed. The investigation will usually be conducted jointly with the police. The police will be able to tell you if the HSE are involved. The HSE can take enforcement action against an employer. For more information about the HSE go to www.hse.gov.uk.

The police report

If the police investigation finds any evidence that suggests a crime may have been committed, this evidence is compiled into a report that is sent to the Crown Prosecution Service, the agency responsible for bringing prosecutions (see next page). You are not automatically entitled to see this report, but you may be able to get a copy. You may only be able to get a copy after any criminal proceedings have finished.

If you wish to get a copy, you or a solicitor you are using (see page 25) can ask the police. You may or may not have to pay for it. If there is a charge, and you are pursuing a claim for compensation, your solicitor may be able to reclaim the charge as part of your claim.

Before reading a police report, you may want to ask your solicitor or the police what it contains. Police reports often contain photographs taken at the time of the crash and sometimes detailed interviews with eye witnesses. It will be possible for the police or your solicitor to remove anything you don't wish to see or read.

Standards have been set for fatal road crash investigations in a police document called the *Authorised Professional Practice (APP): Investigation of fatal and serious injury road crashes*. You can access this through www.brake.org.uk/support.

The Crown Prosecution Service

The Crown Prosecution Service (CPS) is responsible for prosecuting criminal cases investigated by the police in England and Wales. It works from regional offices. If the police investigation indicates that the conduct of someone, or several people, or in some cases, a company, amounted to a crime, the CPS may advise the police to bring charges. The purpose of a criminal prosecution is to find out if someone has broken the law and appropriately sentence them.

CPS lawyers, called Crown Prosecutors, apply two key tests when deciding whether a person should be prosecuted:

1. Is there enough evidence against the defendant?

The CPS must consider whether there is enough evidence to charge someone, whether the evidence can be used in court, and whether the evidence is reliable and credible. There must be sufficient evidence for a 'realistic prospect of conviction'. This means that it is more likely than not that the person will be convicted. (This is different to the way a court decides whether to convict a person. A court should convict someone only if they are sure they are guilty.)

2. Is it in the public interest for the CPS to bring the case to court?

If someone has died as a result of a crime, a prosecution is usually in the public interest.

Following a review of the evidence, the CPS selects the most appropriate charge to reflect the seriousness and extent of any offending.

The CPS acts on behalf of the public interest, not on behalf of victims or victims' families. However, when deciding if a prosecution is in the public interest, the CPS takes into account any views that you or others have expressed in Victim Personal Statements (see next page).

Whether or not a criminal prosecution will happen in your case depends on the circumstances of the crash.

If the CPS plans to charge someone with an offence that would be dealt with by a Magistrates' Court, they must do so within six months from the time when the offence was committed. More serious charges can be brought later.

Meeting the Crown Prosecution Service

The CPS must meet with you if certain serious charges are being heard. The CPS will explain charges being brought, how the case is likely to progress, discuss your needs and answer your questions. The CPS is required to do this by the *Code of Practice for Victims of Crime (2015)* (Chapter 2, Part A, section 2.5 and 2.16).

The CPS should also meet with you if a decision has been made to reduce or drop a criminal charge. This is also specified in the *Code of Practice for Victims of Crime (2015)* (Chapter 2, Part A, section 2.11).

If you aren't offered a meeting, and you would like to talk to the CPS, you can ask if a meeting is possible.

The CPS is guided by the *Code of Practice for Victims of Crime* and its own CPS Legal Guidance. To view the guidance, visit www.cps.gov.uk and click on 'victims and witnesses'. The website includes contact details for your local CPS office.

Victim Personal Statements (VPS)

If criminal charges are being considered, then you should be offered the opportunity to make a Victim Personal Statement (VPS). This gives you an opportunity to explain in writing, before sentence is imposed, how the crime has affected your life, physically, emotionally, psychologically, financially or in any other way. You can write your own VPS or someone else can write down what you say.

A VPS becomes part of the case papers and may be read out in court. However, this requires the permission of the court. You can say whether you would like to read out your VPS or you can ask for it to be read out by someone else on your behalf.

You do not have to make a victim statement if you do not want to. It will not damage the case in any way or affect whether the defendant is found guilty or not guilty.

Your entitlement to make a VPS and what this entails is outlined in the *Code of Practice for Victims of Crime (2015)* (Chapter 2, Part A, section 1).

If you wish to make a VPS, please talk to your police contact or a charity that supports victims of crime.

Charging someone and the possibility of bail

Someone who is charged with an offence is often called 'the accused'. If the CPS decides to prosecute, the accused person may be arrested and taken to a police station to be charged. Alternatively, they may be issued with a court summons which describes the offence and when the case will be heard in court.

An accused person may be remanded in custody (imprisoned) or given bail (allowed to remain free before their case is heard). The accused will be granted bail unless the court has reason to believe they:

- would not attend a court appearance;
- would commit an offence while on bail;
- would interfere with witnesses;
- would obstruct the course of justice.

People on bail are required to:

- turn up, when required, to court hearings;
- comply with the law;
- not interfere with witnesses or obstruct the course of justice;
- make themselves available to the court as and when necessary.

Conditions may be attached to bail, such as limiting where the accused person can live, or preventing them coming near you or your home or near someone else. A person on bail can also be electronically tagged. A court may require an accused person to refrain from driving as a condition of bail, but only if it considers that it is necessary to prevent the accused person from committing further offences. Otherwise, an accused person who is on bail and who possesses a valid driving licence will be allowed to continue driving while awaiting trial. If they are convicted of a crime, they may or may not be disqualified from driving as part of their sentence.

The accused person may apply for bail at different stages of the case, even if it has been refused earlier. The accused may appeal against a decision not to grant bail. If bail is still refused on appeal, the accused can ask for the decision to be reviewed, but only if there is good reason. If bail is granted, the prosecution can only appeal against the decision in rare circumstances.

If the accused is granted bail and their behaviour causes you concern, for example you see them driving in a way that you consider dangerous, or if they threaten you, report it immediately to your police contact.

Changes to charges

Sometimes, if the accused is charged with a serious offence, the lawyers representing the accused ask the CPS for the charge to be changed to a less serious offence, on the basis of the evidence of the case. This request can happen before a case goes to trial.

The CPS may decide to continue charging the accused with the serious offence or may decide to charge the accused with a less serious offence. Their decision is based on the evidence and what is in the public interest. It may include factors such as the availability of witnesses.

Victim Right to Review

If a decision is made by the police or the CPS not to bring charges against someone, you may have the right to request a review of the decision, known as a Victim Right to Review. If you wish to request this, talk to your police contact to find out if it is possible, and the time frame in which you must do it.

Challenging a decision through judicial review

A few bereaved families have challenged the CPS in the High Court for not bringing a serious charge. These challenges have used a process called judicial review. The High Court has the power to rule that the CPS should reconsider bringing a serious charge. This process is very costly unless you can qualify for legal aid.

Criminal offences

The following pages list some of the criminal offences that people may be convicted of following death on the road. Many people find it helpful to know that:

- Maximum penalties are different for different offences, sometimes significantly. Courts often impose penalties lower than the maximum.
- Some offences mention the death or deaths, but others do not. Sometimes it is only possible for someone to be charged with an offence that doesn't mention the death or deaths.
- Sometimes a person, or more than one person, is charged with committing more than one offence.

Causing death by dangerous driving

Section 1 of the Road Traffic Act 1988 (as amended by the Road Traffic Act 1991, section 1)

The law states that: 'A person who causes the death of another person by driving a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.'

The definition of dangerous driving is that:

- (a) the way a person drove fell far below what would be expected of a competent and careful driver, and
- (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.

It is also dangerous driving if it would have been obvious to a competent and careful driver that driving a vehicle in its current state (for example, with defective brakes or other defective safety-critical components) would be dangerous.

If a jury decides that an accused person is not guilty of this charge, they may instead convict them of 'causing death by careless or inconsiderate driving' (see next page), 'dangerous driving' or 'careless or inconsiderate driving' (see page 48).

This offence is tried in the Crown Court. The maximum penalty is a prison sentence of 14 years and/or an unlimited fine. Anyone convicted of this offence must be disqualified from driving for a minimum of two years, unless there are special reasons to impose a shorter disqualification or no disqualification. They must pass an extended driving test before they can regain a full driving licence.

Brake's helpline on 0808 8000 401 is for anyone who has been bereaved in a road crash, whether you contributed to causing the crash or not.

Causing death by careless or inconsiderate driving

Section 2B of the Road Traffic Act 1988 (as amended by the Road Safety Act 2006, section 20)

The law states that: 'A person who causes the death of another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.'

The law distinguishes between 'dangerous' driving and 'careless or inconsiderate' driving. The definition of careless and inconsiderate driving is that the standard of a person's driving fell below (rather than far below) what would be expected of a careful and competent driver.

This offence can be tried in either the Crown Court or a Magistrates' Court. The maximum penalty is a prison sentence of five years and/or an unlimited fine in the Crown Court, or a prison sentence of six months and/or an unlimited fine in a Magistrates' Court. Anyone convicted of this offence must be disqualified from driving for a minimum of one year, unless there are special reasons to impose a shorter disqualification or no disqualification. They may be ordered to pass an extended driving test before they can regain a full driving licence.

Causing death by careless driving when under the influence of drink or drugs

Section 3A of the Road Traffic Act 1988 (as amended by the Road Traffic Act 1991, section 3)

The law states that: 'If a person causes the death of another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, and he is, at the time when driving, unfit to drive through drink or drugs, or he has consumed so much alcohol or specified drugs that the proportion in his breath, blood or urine exceeds the prescribed limit, or he fails to provide a specimen, he is guilty of an offence.'

The offence is committed if the death is caused by careless driving and the driver has more than the legal limit of alcohol or specified drugs, or fails to provide a specimen. This means the police do not necessarily have to show a person's driving ability was impaired, only that they had more than the permitted amount of alcohol or certain drugs.

This offence is tried in the Crown Court. The maximum penalty is a prison sentence of 14 years and/or an unlimited fine. Anyone convicted of this offence must be disqualified from driving for a minimum of two years (or three years if there is a related previous conviction), unless there are special reasons to impose a shorter disqualification or no disqualification. They must pass an extended driving test to regain a full driving licence. If the driver is not disqualified, their licence may be endorsed with between three and 11 penalty points.

Causing death by driving: unlicensed or uninsured drivers

Section 3ZB of the Road Traffic Act 1988 (as inserted by the Road Safety Act 2006, section 21, and amended by the Criminal Justice and Courts Act 2015)

The law states that: 'A person is guilty of an offence if he causes the death of another person by driving a motor vehicle on a road and, at the time when he is driving, the circumstances are such that he is committing an offence under -

- (a) section 87(1) of this Act (driving otherwise than in accordance with a licence), or
- (c) section 143 of this Act (using a motor vehicle while uninsured or unsecured against third party risks).'

This offence would only be charged where there is evidence that the standard of driving was in some way at fault and contributed more than minimally to the death. If an uninsured/unlicensed driver was involved in a crash caused entirely by somebody else, they would not be prosecuted for causing the death by driving.

This offence can be tried in either the Crown Court or a Magistrates' Court. The maximum penalty is a prison sentence of two years and/or an unlimited fine in the Crown Court, or a prison sentence of six months and/or an unlimited fine in a Magistrates' Court. Anyone convicted of this offence must be disqualified from driving and their licence must be endorsed with between three and 11 penalty points.

Causing death by driving: disqualified drivers

Section 3ZC of the Road Traffic Act 1988 (as inserted by the Criminal Justice and Courts Act 2015 (2015c.2))

The law states that: 'A person is guilty of an offence under this section if he or she –

- (a) causes the death of another person by driving a motor vehicle on a road, and
- (b) at that time, is committing an offence under section 103(1)(b) of the Act (driving while disqualified).'

This offence would only be charged where there is evidence that the standard of driving was in some way at fault and that it is linked to the death.

This offence can be tried in either the Crown Court or a Magistrates' Court. The maximum penalty is a prison sentence of 10 years and/or an unlimited fine in the Crown Court, or a prison sentence of six months and/or an unlimited fine in a Magistrates' Court. Anyone convicted of this offence must be disqualified from driving.

Murder and manslaughter

Common Law

Murder is committed when there was intention to kill a victim or cause grievous bodily harm. This would mean that the driver had purposefully used their vehicle as a weapon. Charges of murder are rarely brought against drivers following a fatal road crash.

There are two types of manslaughter charge that could be brought against a driver who has caused death. 'Unlawful act manslaughter' is committed when the accused caused loss of life through an illegal action, such as using their vehicle as a weapon, but it cannot be proven that they intended to kill or cause grievous bodily harm.

'Gross negligence manslaughter' is committed when it is proven that the accused's driving: caused the death; fell far below the standard of a careful and competent driver; involved an obvious and serious risk of death; was a gross breach of a 'duty of care' owed by the driver to the person who died; and was so far below the minimum acceptable standard of driving as to amount to a crime.

The offences of murder and manslaughter are tried in the Crown Court. Murder carries a mandatory life sentence. Manslaughter has a maximum penalty of life imprisonment. Anyone convicted of manslaughter in a driving case must be disqualified from driving for a minimum period of two years and then required to pass a driving test to regain a full driving licence.

Wanton or furious driving causing bodily harm

Section 35, Offences against the Person Act 1861 (as amended by the Road Safety Act 2006, section 28)

Driving offences under the Road Traffic Act must involve a motorised vehicle, and be on a public road or in a public place. By contrast, the offences of 'wanton and furious driving causing bodily harm', as well as the offences of murder or manslaughter, do not have these restrictions. They can be committed even if the offender is using a non-motorised vehicle, such as a bicycle. They can also be committed wherever the driving takes place, including on private land.

This offence is tried in the Crown Court. The maximum penalty is a prison sentence of two years and/or an unlimited fine. Anyone convicted of this offence can be disqualified from driving. If they are not disqualified, their licence must be endorsed with between three and nine penalty points.

Corporate manslaughter and corporate homicide

Corporate Manslaughter and Corporate Homicide Act 2007

The law states that ‘An organisation is guilty of an offence if the way in which its activities are managed or organised: (a) causes a person’s death, and (b) amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased.’

A ‘duty of care’ is defined as a duty owed by an organisation to its employees or contractors, a duty owed as the occupier of premises, or other duties described in law that relate to the running of the organisation.

An organisation is guilty of a ‘gross breach’ of a relevant duty of care if its conduct fell far below what would be reasonably expected. For example, if a company failed to ensure a vehicle it was operating had serviced brakes, and the vehicle could not be controlled.

This offence is tried in a Crown Court. Any penalty is against the company, not individuals working for the company. The court may impose an unlimited fine. The court may also impose a remedial order (where an organisation must make changes to prevent future breaches of health and safety laws) and a publicity order (where an organisation must publicise the details of its offence).

Gross negligence manslaughter by company employees

Common Law

Individuals within companies can be prosecuted for gross negligence manslaughter (see page 44) if their actions were criminal and directly led to a fatal crash. For example, if a boss of a lorry company told a driver not to take their legally-required rest breaks and the driver fell asleep at the wheel, or if they told their mechanic not to replace worn brakes on a lorry and these brakes subsequently failed. Companies can also be prosecuted for gross negligence manslaughter if an individual found guilty of the offence plays a significant role in the management of the organisation’s activities.

If an individual is found guilty of gross negligence manslaughter, the maximum penalty is life imprisonment. If a company is found guilty, it can receive an unlimited fine.

Aggravated vehicle taking

Section 12(A) of the Theft Act 1968

This offence is committed when a person takes a vehicle without the owner's consent (often called 'joy riding' in the media) or other lawful authority for his own or another's use, or, knowing that any vehicle has been taken without such authority, drives it or allows himself to be carried in it or on it and at any time after the vehicle was unlawfully taken, whether by them or by another, and before it was recovered:

- a) the vehicle was driven dangerously on a road or other public place; or
- b) owing to the driving of the vehicle, injury or death was caused to any person; or
- c) owing to the driving of the vehicle, damage was caused to any property; or
- d) owing to the driving of the vehicle, damage was caused to the vehicle.

The offence is tried in the Crown Court or Magistrates' Court. If a death was caused, the maximum sentence in a Crown Court is 14 years' imprisonment and/or an unlimited fine. The maximum sentence in a Magistrates' Court is six months' imprisonment and/or an unlimited fine. The driver must be disqualified for a minimum of one year. If dangerous driving was proven, the convicted person must pass an extended driving test before a full driving licence can be obtained.

Failing to stop or report an accident

Section 170(4) of the Road Traffic Act 1988

A driver involved in a crash causing death, injury or damage is required to stop, remain at the scene and give their details. If they don't, they are required to report the crash to a police officer 'as soon as reasonably practicable' and within 24 hours. This offence (often called 'hit and run' in the media) is committed if a driver doesn't do this.

Offences under this section are tried in a Magistrates' Court. The maximum penalty for failing to stop or report an accident is a prison sentence of six months and/or an unlimited fine. The driver can be disqualified from driving. If not, their licence must be endorsed with between five and 10 penalty points.

Killing someone by using a defective vehicle

If an unsafe vehicle (for example, a vehicle with defective brakes) has caused a death, then there are a range of offences that may have been committed by, depending on the case, the driver, the owner or operator of the vehicle if different (for example, the boss of a company running a fleet of vehicles), or anyone else considered responsible.

It may be possible, for example, to charge someone with the offence of causing death by dangerous driving (see page 40), aiding and abetting (see page 50), or corporate manslaughter (see page 45).

Someone may be found to be in breach of Construction and Use Regulations. These impose requirements relating to safety critical components such as brakes, tyres, steering, tachographs (which record driving time of commercial vehicles) and speed limiters (which restrict speed on commercial vehicles).

Breaches of Construction and Use Regulations are usually heard in a Magistrates' Court, but some offences may be dealt with by fixed penalty notice. In a Magistrates' Court there is a range of maximum fines which can be imposed for different Construction and Use offences, the most severe of which is unlimited. Anyone given a fixed penalty notice must pay £60 and their licence must be endorsed with three penalty points. It may also be possible to disqualify an offender from running a company.

Charges that do not mention death or injury

The following charges do not mention death or injury, but are sometimes brought against a driver who was involved in a fatal crash:

- **Dangerous driving** *Section 2 of the Road Traffic Act 1988 (as amended by the Road Traffic Act 1991, section 1); and*
- **Careless, and inconsiderate, driving** *Section 3 of the Road Traffic Act 1988*

In some cases, there is evidence that a driver was driving dangerously or carelessly before or after the crash, but there is no evidence to prove dangerous or careless driving at the time of the crash. In these cases, it may only be possible to charge someone with either dangerous driving or careless driving, rather than the more serious offence of 'causing death by dangerous driving' or 'causing death by careless or inconsiderate driving'.

Dangerous driving can be tried in either the Crown Court or a Magistrates' Court. The maximum penalty is a prison sentence of two years and/or an unlimited fine in the Crown Court, or a prison sentence of six months and/or an unlimited fine in a Magistrates' Court. The driver must be disqualified from driving for a minimum of one year unless there are special reasons to impose a shorter disqualification or no disqualification. The driver must pass an extended driving test before they can regain a full driving licence.

Careless driving is tried in a Magistrates' Court. The maximum penalty is an unlimited fine. The driver can be disqualified from driving. If not, their licence must be endorsed with between three and nine penalty points.

Driving otherwise than in accordance with a licence

Section 87(1) of the Road Traffic Act 1988 (as amended by the Road Traffic Act 1991, section 17)

A person commits this offence if they drive when they do not hold a driving licence, or if they do not comply with the conditions of their licence.

There may be circumstances where an unlicensed driver is involved in a fatal collision, but it cannot be proved that their actual driving caused the death (for example, where they are driving carefully at a safe speed and another driver collides with them and dies). In these circumstances, they may still be prosecuted for driving without a valid licence. It is also an offence to cause or permit another person to drive if they do not hold a valid driving licence.

This offence is tried in a Magistrates' Court. The maximum penalty is a fine of £1,000. The driver can be disqualified from driving. If not, their licence must be endorsed with between three and six penalty points.

Driving while disqualified

Section 103(1) of the Road Traffic Act 1988

If a person drives while disqualified from driving, they commit this offence. A person may also be charged with this offence instead of 'driving otherwise than in accordance with a licence' (see above), if they do not comply with the conditions of a provisional licence gained after a period of disqualification. As above, there may be circumstances where a disqualified driver is involved in a fatal collision, but it cannot be proved that their actual driving caused the death (for example, where they are driving carefully at a safe speed and another driver collides with them and dies). In these circumstances, they may still be prosecuted for driving while disqualified.

This offence is tried in a Magistrates' Court. The maximum penalty is a prison sentence of six months and/or an unlimited fine. Anyone convicted of this offence can be disqualified from driving. If they are not disqualified, their licence must be endorsed with six penalty points.

Driving without insurance *Section 143(1)(a) of the Road Traffic Act 1988*

If a person drives a vehicle on a road or any other public place without motor insurance, they have committed this offence. As on the previous page, there may be circumstances where an uninsured driver is involved in a fatal collision, but it cannot be proved that their actual driving caused the death (for example, where they are driving carefully at a safe speed and another driver collides with them and dies). In these circumstances, they may still be prosecuted for driving without insurance.

This offence is tried in a Magistrates' Court. The maximum penalty is an unlimited fine. Anyone convicted of this offence can be disqualified from driving. If they are not disqualified, their licence must be endorsed with between six and eight penalty points.

Aiding and abetting

Someone who encourages another person to commit an offence may also be guilty of that offence. For example, if a passenger in a vehicle encourages the driver to drive dangerously, the passenger may be guilty of aiding and abetting dangerous driving. Generally, the same penalties apply, although length of licence disqualification may differ. This can also apply in the case of a company that uses drivers (such as a lorry or bus operator) and allowed those drivers to drive dangerously, or use vehicles in a dangerous condition. The company, or a manager within the company, may be charged.

Aiding and abetting offences may be tried in either a Magistrates' Court or the Crown Court, depending on the seriousness of the offence. Generally the same penalties apply, although length of licence disqualification may differ.

Bringing a private prosecution

It is sometimes possible for a member of the public, rather than the Crown Prosecution Service, to prosecute another person for a criminal offence. This is called a private prosecution. This process is very costly and you cannot claim legal aid.

Sometimes, new offences are created, or there are changes to the definition of offences or the maximum penalty for an offence. More information on offences and charging policy can be found on the Crown Prosecution Service website www.cps.gov.uk.

Court cases

Court cases

Attending court	51
Support in court	51
Seeing the accused or their friends around the courthouse	52
Where you can sit in the courtroom	52
What you may see and hear, and how you may feel	53
Understanding what is happening in court	53
Courtroom changes and delays	53
If you are asked to be a witness in court	54
Special measures for vulnerable or intimidated witnesses	54
Court procedures	
Courts where charges are heard	55
Preliminary hearings and length of trials	55
What happens in a Magistrates' Court?	56
Magistrates' Court hearings and trials	56-57
What happens in the Crown Court?	57
Crown Court hearings and trials	57-58
Youth Courts	59
The verdict	59
Pleas in mitigation and background reports	59
Sentencing	60
Community sentences	61
Restorative justice	61
Appeals	
Appeals by an offender	62
Appeals by the prosecution	62
Appeals to the Supreme Court	63
When can appeals be lodged?	63
Prisoner release	
Will an offender serve their whole sentence in prison?	64
Will an offender serve their whole driving disqualification?	65
Will I be told when an offender is going to be released?	66
Coroner investigations and inquests	67-70
Having your say about criminal justice	71-73

Attending court

Most criminal cases and appeals are held in public courtrooms. This means that you can attend, although you don't have to unless you are called as a witness (see page 54). The information below can help you decide if you want to go or not, and help prepare you if you do decide to go.

Witness Care Units provide information and support to victims and witnesses in cases progressing through the criminal justice system.

Your Witness Care Unit should tell you the date, location and outcome of any criminal court hearing within one working day of knowing the date themselves. If the police are acting as a single point of contact in your case, they would do this instead of the Witness Care Unit. This is stipulated in the government's *Code of Practice for Victims of Crime (2015)*, Chapter 2.

Support in court

If you decide to attend a court hearing, it may help to have support. Your police contact may be able to come with you. You can also bring friends and family. The court will try to find places for everyone to sit, although maximum numbers will be restricted by seats available.

The Witness Service may be able to help you prepare for court and support you in court. The Witness Service provides emotional support, practical advice and information to all victims and witnesses attending court. It is run by Citizens Advice and is free and confidential. The Witness Service may be able to arrange for you to visit court before the hearing and may be able to accompany you at the trial. Additional support is available for vulnerable or intimidated witnesses (see page 54). To get help from the Witness Service, call 0300 332 1000 or go to www.citizensadvice.org.uk/witness.

Your Witness Care Unit or police contact can refer you to the Witness Service or you can refer yourself. For advice on how to access this service, call the Brake helpline on 0808 8000 401.

Seeing the accused or their friends around the courthouse

If you were not in the crash, court may be the first place that you see the accused or any of their friends. Many people find this hard. If the accused is on bail, they will be able to use the public areas of the court, such as any cafe. The Witness Service may be able to accompany you if you need to use the same public areas.

It may be possible for you to sit and wait for a court hearing in a quiet room, away from the accused (if they are not remanded in custody) and away from any of their friends. You can ask court staff, or the Witness Service, about this.

Where you can sit in the courtroom

In the courtroom, you and anyone supporting you, as well as friends of the accused and any journalists, can sit in the public gallery. (If you are a witness, you will not be able to sit in the gallery until you have given evidence.)

It may be possible for you to be seated away from the accused's friends in court. You can ask court staff, or the Witness Service about this.

**In court, the accused person is referred to as the defendant.
This is because they are defending the case against them.**

What you may see and hear, and how you may feel

Evidence is presented in court for the benefit of the judge and jury or magistrates. Sometimes you may not be able to see evidence being discussed (such as diagrams or videos). If you can see evidence, some of it may be particularly upsetting. You may also strongly disagree with one or more things said in court by a lawyer for the defendant, or by a witness.

If you think you may get upset and need to leave the courtroom, you can. You are allowed to leave and re-enter a courtroom quietly. While you are in court, you are required to sit quietly and not talk. People who disturb court proceedings can be asked to leave.

You should switch off your phone, tablet or other electronic device before you enter the courtroom. You are usually allowed to take notes in court, but sometimes there are legal reasons that prevent this. You should check with court staff before taking notes. You are not allowed to take photos or make sound recordings in court.

Understanding what is happening in court

The Crown Prosecution Service (CPS) should ensure that someone from the CPS connected with the prosecution of your case is introduced to you at court and answers any of your questions about court procedures. The Government's Code of Practice for Victims of Crime (2015) (Chapter 2, Part A, section 2.16) requires this. Your police contact can help you arrange this.

Courtroom changes and delays

Sometimes a court building has many courtrooms in it. Sometimes the courtroom in which your case will be heard changes. Sometimes the start time of a hearing is delayed, or a hearing is postponed to another day. Your police or CPS contact should be able to keep you up to date with what is happening.

If you are asked to be a witness in court

If you are a witness, you will already have given a statement (see page 33). In some cases, this statement can be used as your evidence in court. In other cases, you may have to give evidence in court.

Being a witness in court is a new experience for most people. You should be assigned a witness care officer who can give you information about what will happen and support you. The witness care officer works for the Witness Care Unit, a joint initiative by the CPS and the police. For more information about witness care officers, talk to your police contact.

You can also go to www.gov.uk and type 'witness' into the search box for information on being a witness. If you don't have access to the internet, or need this information in a different language, ask your witness care officer.

Special measures for vulnerable or intimidated witnesses

Witnesses who are vulnerable or feel intimidated may be able to give evidence with the assistance of special measures. These measures include screening (so that you cannot see the defendant and they cannot see you), live television links, hearings in private, use of an intermediary (someone who helps communicate to you questions you are being asked by the court, and communicate back your answers) and allowing a video-recorded statement to act as evidence at trial.

The court has to follow legal guidelines regarding who is eligible for special measures. If you want to find out if you can use any special measures, talk to your police contact or other Witness Care Unit representative. An application has to be made to the court for use of special measures and the court decides whether they will allow you to use them or not. You may be able to practise using special measures during a court visit before the trial. You can ask your Witness Service contact about this.

The Witness Service (see page 51) may be able to help you prepare for your court visit. They may be able to visit you at home or another convenient place away from the court. To get help from the Witness Service, call 0300 332 1000 or go to www.citizensadvice.org.uk/witness.

Courts where charges are heard

There are three kinds of offences. These are called 'summary' offences, 'indictable' offences and 'either way' offences.

Summary offences are heard at a Magistrates' Court. A Magistrates' Court can sentence offenders to up to six months' imprisonment (or 12 months for more than one offence in some cases) and an unlimited fine. 'Indictable' offences are heard at a Crown Court. A Crown Court can impose more severe sentences.

An 'either way' offence can be heard in a Magistrates' Court or a Crown Court. An 'either way' offence will be heard by the Crown Court if a Magistrates' Court thinks a case is too serious to be dealt with appropriately at the Magistrates' Court. An either way offence will also be heard at a Crown Court if an accused person chooses to have their case heard there.

Preliminary hearings and length of trials

Before the main trial goes ahead, a prosecution may start with one or more short hearings that don't include witnesses being called. These short hearings have several purposes, including giving the lawyers an opportunity to raise and discuss legal arguments that may affect the case and to discuss the availability of witnesses. The objective of these hearings is to help a trial proceed smoothly without unnecessary delays.

Cases can take longer than expected to come to court. This may be for many reasons, such as a need to trace witnesses or obtain documents prior to a court hearing. Court hearings may also start late, be cut short or be postponed.

Your witness care officer (see page 51) will be able to explain to you what is likely to happen at a planned hearing and how a case is progressing.

What happens in a Magistrates' Court?

A case heard in a Magistrates' Court is usually determined by magistrates.

Magistrates are trained volunteers who normally sit in threes with one as chairperson. They sit with a legal adviser who is a qualified lawyer. The legal adviser gives the magistrates advice on points of law and court procedure and records decisions. Magistrates do not wear robes or judicial wigs. In some Magistrates' Courts there are legally qualified district judges who sit alone.

Magistrates' Court hearings and trials

The defendant is usually required to appear in court to plead guilty or not guilty. In some cases, someone who is accused of a less serious offence may be given an opportunity to plead guilty by completing a form and posting it to the court rather than attending court. They do not have to appear in court unless the magistrates are considering a driving disqualification.

If the defendant pleads guilty, the magistrates or district judge will hear the facts of the case before sentencing.

If the defendant pleads not guilty, then a date is usually set for a trial and the case is adjourned until that date. Magistrates' Court trial dates may be set some time ahead to allow lawyers time to prepare. Sometimes trial dates are postponed, occasionally this happens at the last minute.

The people who speak in court for each side are usually lawyers. However, someone called an 'associate prosecutor' may speak on behalf of the CPS. Associate prosecutors are trained to present the CPS's case but are not lawyers. The defendant may choose to speak for themselves.

The person speaking for the CPS presents the evidence against the defendant. The person speaking for the defendant then presents their case.

Both sides may call witnesses to give evidence, such as police crash investigation officers and eye witnesses. Photographs, videos and diagrams may be shown. Both sides can ask questions or put statements to witnesses who have been called by either side. The magistrates can also ask witnesses questions.

If both sides agree in advance of the trial that a written statement given by a witness is not going to be challenged in court, then that witness may not be required to attend court, and their written evidence may be read out instead. The defendant can choose not to give evidence. If they do give evidence, they can also be questioned.

After all of the evidence has been presented, the lawyers for both sides make closing speeches. The person speaking for the CPS will speak first. The magistrates, or district judge, then consider their verdict. If found guilty, the offender is sentenced. See pages 59 to 61 for information on verdicts and sentencing.

Magistrates' Courts are sometimes held in buildings which serve other uses, such as town halls.

What happens in the Crown Court?

Most cases heard in the Crown Court are determined by judges and juries. The judge decides on matters of law and the sentence if a defendant pleads guilty, or is found guilty after a trial. The judge and the lawyers who present evidence in the Crown Court wear robes and some wear judicial wigs.

If the defendant pleads not guilty, their guilt or innocence is determined at trial by jury. A jury is made up of 12 members of the community, chosen at random from the electoral register. A jury will be directed by the judge to try to reach a unanimous verdict, meaning all jurors reach the same verdict. However, in some cases judges allow a jury to reach a majority verdict with 10 of the 12 jurors in agreement.

Crown Court hearings and trials

Before a Crown Court hearing takes place, the defendant must appear at least once in a Magistrates' Court, where the charge is read out. If the charge is an 'either way' offence and is to be heard in the Crown Court the defendant will usually appear once in the Magistrates' Court before the case moves to the Crown Court. Sometimes, it is decided that a case can be heard entirely in the Magistrates' Court. Sometimes, a case is heard in the Magistrates' Court but sentencing takes place in the Crown Court.

A first hearing at Crown Court should take place about four weeks after the Magistrate's Court appearance if the defendant has pleaded not guilty. If the defendant has pleaded guilty to an 'either way' offence (see page 55) in the Magistrate's Court, the sentencing hearing in the Crown Court should take place after about three weeks.

At the first Crown Court hearing, the defendant usually says whether they are pleading guilty or not guilty. However, sometimes the judge will set a date for this to happen at a second hearing.

If the defendant pleads guilty the judge will sentence them (see page 60). This may be at a later date. If the defendant pleads not guilty a date is set for a trial. A trial date may be many weeks or months ahead. Sometimes, additional hearings take place before a trial so lawyers and the judge can discuss certain legal matters.

At a Crown Court trial, the evidence for the prosecution is presented by a barrister or crown advocate. Barristers and crown advocates are lawyers who specialise in presenting cases in court. A barrister usually speaks for the defendant.

The lawyers present evidence to the judge and jury to support their cases. Photos, videos and diagrams may be shown to the jury. The lawyers may read statements from witnesses and call witnesses to give evidence in court, such as police crash investigation officers and eye witnesses.

The lawyers representing either side, and the judge, can ask any witness questions. The defendant can choose not to give evidence.

After the evidence has been presented the lawyers make closing speeches. Then the judge sums up. The jury retires to consider its verdict. If the verdict is guilty, the judge considers the sentence. See pages 59 to 61 for information on verdicts and sentencing.

Youth Courts

Youth Courts deal with young people aged between 10 and 17 charged with criminal offences. Youth Courts are part of Magistrates' Courts. Up to three specially-trained magistrates or a district judge hear a case. If a young person is charged with an offence which, in the case of an adult, is punishable with 14 years' imprisonment or more, the Youth Court can send them to the Crown Court for trial or sentence.

Youth Court hearings are not open to the public and you can only attend if you have been given permission by the magistrates.

If a young person is aged between 15 and 21 and found guilty, they may, if the court considers the offence serious enough, be sent to a Young Offenders Institution (YOI). A YOI is a secure facility like a prison – inmates cannot leave until they are released. Alternatively, they may be sent to a Secure Children's Home (if aged between 10 and 16) or a Secure Training Centre (if aged between 12 and 17).

For more information, go to www.gov.uk and search for 'youth justice board'.

The verdict

At trial, there are three possible verdicts: guilty, not guilty, and, in some cases, guilty of a lesser offence. Sometimes, no verdict can be reached. In this case, a retrial often happens. Sometimes during a trial the defendant changes their plea. They might decide to plead guilty after previously pleading not guilty. Or they might decide to plead guilty to a lesser offence.

If the verdict is not guilty, the defendant goes free. Even if new evidence emerges against them, they cannot be tried again (except in very rare circumstances and for very serious offences).

Pleas in mitigation and background reports

Before an offender is sentenced, their lawyer will advise the judge or magistrates about any mitigating factors that they think might reduce the sentence, such as an offender's stated remorse or personal circumstances.

The judge or magistrates may ask for background information about the offender. Sentencing may be delayed to a later date so this background information can be provided and the judge or magistrates can give further thought to the sentence.

Sentencing

Any sentence imposed is decided by the magistrates, district judge or Crown Court judge.

When sentencing, various things may be taken into account, including:

- any 'pleas in mitigation' or the findings of background reports (see page 59);
- Victim Personal Statements (see page 37);
- whether the offender pleaded guilty or not. If the offender pleaded guilty, then the sentence can be discounted (reduced). The discount depends upon when the offender pleaded guilty but can be between 10% and 33%;
- guidelines on sentencing. The Sentencing Council produces official guidance on sentencing that can be found at www.sentencingcouncil.org.uk;
- the level of sentences in similar cases in the past. This is called 'case law';
- the powers of the court. The Crown Court can impose much tougher penalties than a Magistrates' Court. In some cases, a Magistrates' Court may refer a case to the Crown Court for sentencing;
- whether a fine or community sentence (see page 61) is appropriate rather than prison.

If the law changes, offenders will be sentenced according to the law at the time the offence was committed.

A court often does not impose the maximum penalty and sometimes imposes a lower penalty. If you are unhappy with a sentence and wish to make your views known, you can contact the CPS. See page 72 for how to do this. You may also want to contact a road safety charity that campaigns on issues around sentencing. See pages 83 and 84.

Community sentences

Often a community sentence is given, rather than a prison sentence (for adults, this is called a community order, and for youths it is called either a youth rehabilitation order or a referral order). This means an offender has to serve their sentence under supervision in the community.

As part of a community order or youth rehabilitation order, the judge or magistrates can impose a combination of different requirements, such as unpaid work on behalf of the community, a curfew or a requirement to attend an offender training course (for example a course on the dangers of drink driving). In a referral order, a panel of people from the local community and youth justice workers agree a programme of work to address the young person's behaviour. If an offender fails to comply with the requirements of either order, they may have to go back to court and may receive a different sentence.

For more information, go to www.gov.uk and search for 'community sentences'.

Restorative justice

Restorative justice provides an opportunity to meet or communicate with an offender to explain the impact of their crime on you. It also aims to help offenders take responsibility and make amends.

Restorative justice often involves a meeting with an offender, guided by a trained facilitator. Alternatively, it could involve letter correspondence, or audio or video recordings. You will have the opportunity to consider and discuss what will work best for you.

Your involvement in restorative justice is entirely voluntary. If it is offered, you can talk to the facilitator about whether to do it or not. If it is not offered, and you want to consider it, talk to your police contact or visit the Restorative Justice Council at www.restorativejustice.org.uk to find out if it is available in your area.

The Code of Practice for Victims of Crime (2015) (Chapter 2, part A, section 7) explains that you are entitled to be told about restorative justice if it is available in your area.

Appeals by an offender

Following a criminal case, a convicted person may appeal against their conviction or sentence or both. If in custody, they can apply for bail and in some cases may be released while waiting for their appeal.

If the case was heard in a Magistrates' Court:

A person has a right of appeal against their conviction or sentence in a Magistrates' Court. This will be heard in the Crown Court by a judge who sits with two magistrates. There is no jury. The Crown Court has the power to quash the conviction or to change the sentence to be more lenient or more severe.

If the case was heard in the Crown Court:

A person has a right of appeal against their conviction or sentence, or both, in the Crown Court. If an appeal does go ahead, it is heard in the Court of Appeal. The Court of Appeal may uphold the conviction, change the conviction to a conviction for a different offence, change the sentence to be more lenient, acquit the person, or order a re-trial. The Court of Appeal can also order a defendant to serve additional days in prison if it considers the appeal should never have been brought.

Appeals by the prosecution

The prosecution has no automatic right to appeal a decision in a Magistrates' Court. However, in limited circumstances involving an error of law, it may be possible. This appeal is made to the High Court.

The CPS has no power to appeal against a verdict of not guilty in the Crown Court. The CPS can request the Attorney General to consider referring a sentence imposed by the Crown Court for certain serious offences to the Court of Appeal on the basis that the sentence is 'unduly lenient'. If you think a sentence was too lenient you can also write to the CPS and the Attorney General (see page 73) expressing your concerns.

Appeals to the Supreme Court

Either the prosecution or the offender may appeal to the Supreme Court if there is a point of law being questioned that is of general public importance.

When can appeals be lodged?

All appeals must be lodged within 28 days of a sentence being imposed and sometimes sooner. Appeals to the High Court (judicial review) must be brought within three months.

You are entitled to be informed of any appeals (see Chapter 2, Part A, section 5 of the *Code of Practice for Victims of Crime*). You can ask your police or Witness Care Unit contact whether or not an appeal has been lodged by the offender or the CPS and the progress of an appeal. They can also tell you the date of an appeal, or its outcome.

Will an offender serve their whole sentence in prison?

Offenders are usually released from prison before the end of their sentence.

Most offenders are given a 'standard determinate sentence', where they must be released on licence after serving half of their sentence in prison. If an offender is considered by the courts to be dangerous and has committed a serious offence, they may be given an 'extended determinate sentence' or a 'life sentence', where they are likely to serve more, or all, of their sentence in prison. This depends on a risk assessment by the Parole Board.

Once released, the rest of the sentence is served 'on licence'. An offender 'on licence' is supervised in the community by the probation service.

An offender serving a sentence of less than two years will usually have to serve an additional period of 'post sentence supervision' after their sentence has expired, also supervised in the community by the probation service.

Offenders who are on licence or serving a period of supervision are required to comply with certain prison service offenders are released early under a special scheme called the Home Detention Curfew Scheme. This scheme requires an offender to remain at a particular address during particular hours and wear an electronic tag to monitor their movements.

Some offenders may be released from prison for short periods on a temporary licence during their prison sentence. This could be for reasons such as to attend a funeral, have medical treatment, or to prepare them for their return to the community. Offenders must return to prison at the end of a temporary licence.

Will an offender serve their whole driving disqualification?

Under certain circumstances, an offender who has been disqualified from driving can apply to court to have their disqualification period reduced.

This process is normally called a 'removal of disqualification' application. An offender can apply to the court for a removal of disqualification after:

- two years, if the disqualification was for more than two but fewer than four years;
- half the disqualification period, if the disqualification was for between four and 10 years;
- five years, if the disqualification was for 10 years or more (including disqualification for life).

The offender must have a good reason for asking for the disqualification to be reduced: for example, if there has been a change in circumstances such as the offender developing a disability. If the court refuses the application, the offender can reapply after three months.

The law sets out the minimum period of a driving disqualification but courts can impose longer bans, including life bans. Courts are also required to consider the impact of a prison sentence on a driving disqualification, and may lengthen an offender's driving disqualification if the offender is spending time in prison.

For more information, visit www.gov.uk and search for 'probation'.

Will I be told when an offender is going to be released?

If an offender is sentenced to 12 months or more imprisonment for certain, serious violent offences (which includes some serious driving offences), you should be invited to join the Victim Contact Scheme which is operated by the National Probation Service.

The Victim Contact Scheme can inform you, if you wish, about key stages in an offender's sentence. This could include if an offender is being considered for transfer to an open prison, or if an offender becomes eligible to be considered for release. If you join the scheme, you should be assigned a Victim Liaison Officer, who will be your contact in the National Probation Service.

The Victim Contact Scheme also gives you an opportunity to give your thoughts about the possible conditions you think should be attached to a prisoner's release licence. For example, you can ask for a condition that the offender does not seek to contact you or other family members. You can also ask for an exclusion zone, prohibiting the offender from going near your home or other places you travel to frequently, such as your place of work.

If you want to find out if you are entitled to join this scheme, but have not been contacted about it, contact the Victim Contact Scheme on 0300 047 6325, or vcenquiries@justice.gov.uk. You can also join the scheme at a later date, while the offender is still serving their prison sentence. Entitlements are outlined in the *Code of Practice for Victims of Crime*, (2015) Chapter 2, Part A, section 6 (iii).

Her Majesty's Prison and Probation Service (HMPPS) runs a Victim Helpline for people worried about the release of a prisoner or who have received unwanted contact from a prisoner.

Call 0300 060 6699 between 9am and 4pm, Mondays to Fridays, or email victim.helpline@noms.gsi.gov.uk.

Coroners

Coroners are special judges who investigate violent or unnatural deaths or deaths where the cause is unknown. This is likely to include most road deaths. Coroners have a legal qualification. They are appointed by local authorities (or councils) with the consent of the Chief Coroner and Lord Chancellor.

The purpose of a coroner's investigation, which may include an inquest (see page 68), is to find out who has died and how, when and where they died, as well as other details to register the death.

The coroner is responsible for authorising the release of the body for burial or cremation. Prior to this, and to help find the cause of death, a coroner will often order a post-mortem examination of the body (see page 14). If, after the post-mortem, the coroner is satisfied that a death was due to natural causes, they will usually end their investigation and not hold an inquest.

If someone is likely to face criminal charges for causing the death, the coroner will usually suspend their investigation until after criminal proceedings have finished. At this stage, the coroner may provide a 'certificate of the fact of death' (also known as an interim death certificate). Following any criminal proceedings the coroner can only resume the investigation if they consider that there is a "sufficient reason" for doing so.

A coroner's investigations cannot apportion criminal blame nor decide if anyone should be punished or receive compensation. These things are decided through criminal proceedings (see pages 33 and 51) and civil proceedings (see page 74). However, if evidence is found that suggests someone may be to blame for the death the coroner can pass the evidence to the police or CPS.

Coroners are assisted by coroners' officers. Part of their role is to give you information, and answer any questions you may have, about the coroner's investigation. Sometimes this role is carried out by other staff in the coroner's office. Your police contact can tell you how to contact the coroner's office.

Inquests

An inquest is a public court hearing to discover the facts of the death. An inquest is unlikely to be held if criminal proceedings are underway and, subsequently, the coroner considers that all relevant evidence was heard as part of those criminal proceedings. An inquest is also unlikely if the cause of death is identified as natural causes.

If an inquest takes place it will be held in a court or another building such as a town hall. An inquest is different from other types of court hearing because there is no prosecution or defence. In some cases, an inquest may be held with a jury. This may happen in certain cases that raise issues of public safety, including cases where the police are involved (such as when a fatal crash followed a police pursuit).

If, after a trial, you think the circumstances surrounding the death are still not clear, you, or a solicitor representing you (see page 25), can ask the coroner to consider continuing with their investigation and inquest. The coroner will decide whether they should do this or not. If the coroner continues with the investigation and inquest after criminal proceedings have concluded, their finding of the cause of death must be consistent with the outcome of the criminal trial. You can ask the coroner's office for more information.

At an inquest, witnesses are usually called to give evidence. The coroner will decide who should give evidence. This may include the police, medical staff, expert witnesses and eyewitnesses. Contributions may also be allowed by a relative or friend of the person who has died. There may be particular people who you, or a solicitor representing you (see page 25), think are important witnesses. If so, you or your solicitor can suggest these people to the coroner. Anyone who may face, or who has faced, a criminal charge in connection with your case can be required to attend the inquest and be sworn in as a witness and face questions, although they have the right not to answer questions that may incriminate them.

If you are asked to give evidence then you, along with any other family members who are giving evidence, will usually do so first. You will give evidence 'under oath' or by affirming that you will tell the truth. If you tell the coroner's office your religion (if you have one), the appropriate text can be handed to you when you swear the oath.

The coroner will ask you questions and may ask you to talk about your written statement, if you have made one. You may also be questioned by other people, known as 'interested persons'. This could be someone else close to the person who died, or a solicitor representing you (see page 25). If there is a jury, jury members may also ask you questions. A coroner may also allow a solicitor representing someone accused of a criminal offence in connection with the crash to ask you questions. All questions must be about the facts of the death. The coroner will decide whether a question is relevant.

When everyone has finished asking questions, you may return to your seat in the court and stay to listen to the rest of the hearing and other witnesses if you want to. Some evidence can be read and not all witnesses need to attend in person.

The coroner, or the jury if there is one, will then reach a conclusion that states who died, and where, when and how they died. Possible 'short-form' conclusions include unlawful killing, accident, road traffic collision or natural causes. Where the facts do not fit one of the short-form conclusions, the coroner or jury may give a narrative conclusion, setting out the facts surrounding the death in more detail and explaining the reasons for the conclusion.

A conclusion of 'road traffic collision' or 'accident' may sometimes be reached in a case even though someone else may have caused the death. This can be upsetting but criminal charges may still be brought (see page 36) and you may still be able to pursue a claim for compensation (see page 74).

If a coroner believes action should be taken to prevent future deaths, they must write a 'Report to Prevent Future Deaths' in which they outline road safety concerns that arose during an inquest. This is something they are required to do under the Coroners (Investigations) Regulations 2013. They send this report to any relevant organisation or individual who may be able to address these issues. The coroner cannot force anyone to take steps to prevent future deaths, but anyone sent a Report to Prevent Future Deaths is required to respond in writing. You can ask the coroner to provide you with a copy of any Report to Prevent Future Deaths and responses they receive.

The reports and responses are sent to the Chief Coroner, and may be published on www.judiciary.gov.uk (search for 'prevention of future deaths summary').

You may wish to ask the coroner's officer if a Report to Prevent Future Deaths is being written, who it is going to, and if you can see it.

Attending an inquest

Inquests are public hearings you can attend if you want to. You may wish to, and are allowed to, have legal representation at an inquest. See page 68 for information about the role of a solicitor at an inquest and page 25 for information about hiring a solicitor.

The coroner's office should inform all interested persons (which includes the next of kin) of the date, time and venue of an inquest. If you are not told, you can ask the coroner's office.

For most people, attending an inquest is a new experience. You may wish to familiarise yourself with the courtroom in advance by visiting it. The coroner's office can arrange this.

Before an inquest, you, or a solicitor acting on your behalf, can request to see documents such as reports that are going to be presented at an inquest, to help you, or your solicitor, prepare for the inquest. You are allowed to see relevant documents but sometimes a coroner decides a document cannot be shared for legal reasons.

During the inquest, technical terms may be used. Coroners should try to explain terms so everyone can understand what is being discussed. You may find some evidence upsetting, for example descriptions of injuries or photographs. The evidence may include personal information about the lifestyle of the person who has died. If you get upset during an inquest, you can leave the courtroom at any time. If you leave, the coroner may be prepared to adjourn the inquest for a short time to allow you to recover and so you do not miss any part of the inquest.

After an inquest is over, it is possible for you, or your solicitor, to obtain a recording of the hearing, for a fee. If you didn't attend the inquest, you may want to ask the coroner's officer what the recording contains, in case there is anything you don't want to hear because it may distress you.

Because inquests are held in public, someone who may have caused the death, and their family or friends, may also attend. Journalists may attend and report on what happens and ask to talk to you (see pages 28 and 30). You may wish to ask family or friends to attend the inquest with you for support. The coroner's office can tell you how many seats will be available and reserve seats at the front of the courtroom for you.

A guide to the coroner investigation process, including the inquest, is available at www.gov.uk (search for 'guide to coroner services'). The guide also sets out the standards you can expect to receive from a coroner's office and what to do if you feel those standards have not been met. This guide can also be downloaded from www.brake.org.uk/support.

The Coroners' Courts Support Service is a charity that provides volunteers in some coroners' courts. These volunteers offer emotional and practical support for bereaved people facing an inquest, and can offer guidance on procedures in the court. To find out in which courts they offer this service, call 0300 111 2141, Mondays to Fridays between 9am and 5pm, or go to www.coronerscourtsupportservice.org.uk.

Having your say about criminal justice

If you have a comment or a concern about the criminal justice system you have a right to be heard and your point of view considered. Speaking up may also help improve criminal justice in the future.

You may have one or more points you wish to raise with one or more criminal justice organisations. Your first step should be to decide which organisation you need to contact. Police forces are responsible for police family liaison (see page 1) and criminal investigations (see page 33).

The Crown Prosecution Service is responsible for bringing prosecutions (see page 36). Her Majesty's Courts and Tribunal Service (HMCTS) is responsible for what happens in court (see page 51 onwards), although it is worth remembering that decisions by magistrates and judges can only be challenged by appeal (see page 62). HMCTS is not responsible for, and cannot influence, decisions made by judges and magistrates. The Prison Service is responsible for what happens to an offender (see page 64).

Your next step is to find out the complaint policy of the organisation you want to contact. Different organisations have different complaint policies, and these policies explain how to have your say. You can usually find an organisation's complaint policy on their website, or ask a local official who works for that organisation to give you a copy.

A complaint policy usually asks you to submit comments in writing. It should explain who will respond (usually a complaints officer or someone close to your case) and how quickly. Whoever responds should aim to address your comments to your satisfaction.

If you would prefer a meeting, this may or may not be possible or appropriate depending on the complaint policy of the organisation, their resources, and the nature of your comments.

Code of Practice for Victims of Crime

When preparing your comments, it is a good idea to read the government's *Code of Practice for Victims of Crime*, and other codes that set standards for criminal justice organisations to enable them to better meet victims' needs. Read the latest versions of these codes at www.brake.org.uk/support.

If you are not satisfied with a response you receive

Complaint policies usually explain steps you can take if you are not satisfied with a response. Usually, this includes giving you the chance to have your comments considered by someone else, such as someone more senior.

If you are still not satisfied with another response you receive, a complaint policy may give you further opportunities, such as having your comments reconsidered by a specialist team, or by the boss of the organisation. There may also be an opportunity to have your comments considered by an independent agency. For example, the Independent Office for Police Conduct investigates complaints about the police.

Having your say to the government

Criminal justice organisations, such as the police and CPS, are set up and regulated by the government, and are the responsibility of particular government departments and their ministers.

If you feel your concerns have not been answered by a criminal justice organisation and you wish the relevant minister to know your concerns, you have a right to contact that minister. The Lord Chancellor and Secretary of State for Justice is responsible for courts administration, prisons and probation. The Attorney General is the government's chief legal advisor and responsible for the CPS, and the Home Secretary is responsible for the police. Any criminal justice organisation can confirm for you which government minister they report to, in which department, and how to contact that minister.

You may choose to contact a minister directly, or through your MP. Your MP can also refer your complaint to the Parliamentary Ombudsman, who is responsible for investigating complaints about government departments. For more information go to www.ombudsman.org.uk or call 0345 015 4033.

You may also wish to join one of several organisations campaigning for criminal justice in road death cases. See pages 83 and 84.

Seeking help to have your voice heard

If you are not sure how to have your voice heard, or you need help preparing what you want to say, call the Brake helpline on 0808 8000 401. Its officers are experienced in helping you to get your thoughts across to the most appropriate people.

Can I claim compensation?

Can I claim compensation?

Can I claim compensation?	74
Hiring a solicitor	74-76
Rogue offers of help	76
Paying your solicitor	77
Types of compensation	78-79
Fatal motor claim procedures	80-82

Can I claim compensation?

There is no automatic compensation for people bereaved by a road crash. However, compensation can often be awarded through a legal process using civil law, pursued by a solicitor you hire.

To award compensation, civil law requires someone (usually a driver in the case of road deaths) to be found at least partly responsible for a death. Sometimes this is possible even if no-one was charged with a criminal offence.

Compensation is then usually paid by the responsible person's motor insurer. If they were uninsured, or are untraceable, then the money is usually paid by an organisation called the Motor Insurers' Bureau. (Find out more at www.mib.org.uk.)

Compensation can be awarded for different things (see pages 78 and 79). The amount of compensation awarded for these things is usually decided through negotiation, but sometimes by a court (see pages 80 to 82).

Even if you do not have funds to pay a solicitor, it is often still possible to pursue a claim for compensation if you have a good claim (see page 77).

Instructing a solicitor to pursue compensation

To pursue a claim for compensation, you need to instruct a solicitor.

You are advised to use a solicitor who specialises in fatal injury cases.

A solicitor you are considering using should agree to meet with you for free initially. You may wish to meet with more than one solicitor to ensure you are choosing the best one for you.

The following organisations provide lists of solicitors that specialise in fatal injury cases:

- **The Association of Personal Injury Lawyers (APIL)** T: 0115 943 5400
www.apil.org.uk
- **The Motor Accident Solicitors Society (MASS)** T: 0117 925 9604
www.mass.org.uk

Here are some questions it is advisable to ask, to help you decide which solicitor to choose:

- Do you think I have a strong claim and are you willing to take on my case?
- What experience do you have in handling similar cases? Can you give me examples and their outcomes?
- How many similar cases have you handled in the past five years?
- What expertise do you have relevant to my case?
- What fees do you charge?
- What arrangements can you put in place for payment of these fees so that compensation I receive is not unduly reduced to cover legal fees, and so that I do not have to pay much, or any, legal costs if I lose? (See page 77 for more information on paying your solicitor.)
- Will you handle my case yourself entirely, or involve colleagues?
- If you plan to involve colleagues, how much will they be involved, and if a lot, can I meet them now?
- How will we communicate during the process? Will you be available to explain things to me and answer my questions regularly through meetings, emails or over the phone?
- Are you a member of APIL and/or MASS?

It is important you sign an agreement with your solicitor that you understand thoroughly and consider fair.

It is also helpful to keep notes of conversations with your solicitor and copies of correspondence, so you can keep track of your claim.

Do not delay

Do not delay consulting solicitors. If you have a good chance of compensation, the solicitor you choose will want to work on your case as soon as possible. It can take time to compile evidence to support your case, and the earlier you hire a solicitor, the sooner compensation can be awarded. Your solicitor may also be able to request for Interim Payments (see page 81) to be made in advance of any final settlement. Most claims must be submitted within three years of the date of the death, although sometimes claims must be made within two years. If the crash happened abroad, time limits for claims may be shorter, and can be one year or less.

Complaining or changing solicitor

If, at any stage, you are unhappy with the service you are getting from your solicitor, you can ask to speak to the partner in the practice responsible for looking after clients; often called the complaints partner.

If you remain dissatisfied, it may be possible to change solicitor. If you have a complaint about a personal injury solicitor, you can complain to the legal ombudsman. Call 0300 555 0333 or go to www.legalombudsman.org.uk.

Rogue offers of help

Sometimes a 'claims assessor', 'claims farmer', or 'claims management company (CMC)', may offer to pursue your claim for you, often on a 'no win, no fee' basis. Often they are not personal injury solicitors, nor qualified or regulated to the same standards of solicitors.

You may also be approached by someone representing the motor insurance company of a driver you want to claim from, offering to settle your claim directly and quickly with you, without the need for you to instruct a solicitor.

Do not accept these offers of help. If you do, you will probably not be independently represented by a suitably qualified solicitor, and you may be awarded far less compensation than you are entitled to.

Paying your solicitor

There are various ways of funding a claim and it is crucial you talk to your solicitor about the options available. Make sure you understand exactly what you may have to pay for if you win or lose your claim.

Sometimes people pay their solicitor as they go along, either because they have the funds to do so, or because they have an insurance policy that covers legal costs and expenses. Your solicitor can help you check any insurance policies you have to find out if you are covered for legal fees.

It is usually possible to pay your solicitor at the end of the case. If you win your case, the person you are claiming compensation from will probably have to pay some of your legal fees.

Many people do not have available funds to pay a solicitor to pursue a claim for them. However, it should be possible to reach an agreement with your solicitor that means you won't have to pay anything, even if you lose your claim.

Depending on the agreement you signed with your solicitor, you may also have to pay your solicitor additional fees from your compensation, such as a 'success fee' for winning your case.

There are complex laws governing how solicitors are paid in compensation cases. It is important that you understand, from the beginning, how your solicitor intends to cover the costs of your claim and any fees you may personally be liable for, at any time, if you win or lose your claim.

It is particularly important that you do not sign an agreement that would result in your solicitor unreasonably taking a large amount of your compensation if you win your case. You should also be protected from being liable for hefty legal costs if you lose your case.

Types of compensation

Some types of claims for compensation are listed below. Your solicitor may advise you to make one, several or none of these claims. All claims depend on liability being established.

1. Dependency claims

In certain circumstances, people who were financially reliant (or who had an expectation of becoming financially reliant) on a person who has died can claim for the loss of that support. This is called a financial dependency claim. The amount that can be claimed is not fixed.

It depends on the amount of support provided by the person who has died and how that would have continued in the future. A dependency claim often includes a claim for loss of income. This amount will be worked out according to how much the person who has died earned, how long they would have continued earning if they had not died and other factors. A dependency claim may include a claim for loss of services provided, such as childcare, DIY, or other domestic jobs which were undertaken by a person who has died.

If you are making a dependency claim for yourself, or on behalf of others such as a child, your solicitor will help you consider all losses and help work out how much to claim in total. Evidence including income and employment records and household bills may be required to prove dependency claims.

2. Bereavement awards

Some people may be entitled to a fixed, statutory bereavement award, currently £12,980. This is only payable to the wife, husband or civil partner of someone who has died, or the parents of a child who has died. Your solicitor can tell you if you are eligible for this award.

3. The shock suffered by bereaved people

You may be able to claim money for the psychological injury you have suffered as a result of your bereavement. There are strict criteria about who can claim. If you do not meet these criteria you may not be able to claim, even though you have suffered significant trauma.

4. The suffering of someone who has died

If someone died after surviving for a period of time, it may be possible to claim compensation for their pain and suffering. The amount that can be claimed is based on the amount of time that the person suffered and the extent of their awareness or suffering.

5. Burial or cremation expenses

Reasonable costs of a funeral (burial or cremation) and associated expenses such as a gravestone can usually be claimed from a liable party. You should keep all receipts.

6. Claim for injuries

If you, or anyone close to you, were injured in the crash, it is important to find out if you can make a claim for those injuries and losses resulting from injuries. Your solicitor will advise you.

Fatal motor claim procedures

Preparing and negotiating your claim

Your solicitor will prepare your claim by collecting evidence, such as proof of past earning levels of the person who died.

Once your solicitor has prepared your claim, they will contact the motor insurer of the person from whom you are trying to claim (the other side). If the other side admits liability your solicitor will start negotiating with them to determine how much compensation they should pay.

The other side may try to argue your claim is too high. For example, if you are pursuing a dependency claim, they may want to check medical and employment records and argue that the person who has died would not have earned as much money in the future as your solicitor is claiming. The negotiation can take a long time but most claims where someone has admitted liability are settled through negotiation rather than court action.

Knowing that solicitors and insurance companies are negotiating over the value of your loss can be distressing, particularly if your case takes time to be resolved. Ask your solicitor to keep you updated on a regular basis about how your case is progressing.

Offers made during negotiation

Both your solicitor, and the other side, can make offers of compensation during negotiations.

Either side has a right to accept or reject an offer. Your solicitor should explain any offer you receive, and help you decide your response.

In some cases, a partial payment called an Interim Payment is made by the other side prior to a final payment, to help cover costs such as funeral expenses. This can be helpful for people facing financial hardship as a result of their bereavement.

Either side may also propose a Final Settlement offer, or Part 36 offer, in full and final settlement of your claim. If the other side proposes a Part 36 offer, you and your solicitor have 21 days to accept or reject it (although an offer can be accepted later if it has not been withdrawn). You should consider all offers seriously.

Going to court

If your compensation cannot be agreed through negotiation, or if liability is not admitted, your solicitor may start legal action against the other side.

However, even after legal action has started, your solicitor is likely to continue to try to negotiate a settlement with the other side.

Sometimes, the other side will make an acceptable offer just before a case is heard in court.

If agreement cannot be reached, your claim will be heard in a County Court or the High Court by a judge.

Success in court is not guaranteed; you cannot pre-determine the decision of a judge. Court cases may also take a long time to be heard.

Cases brought on behalf of children are always decided in court. In most cases, money awarded to children is kept and administered by the court in a special account until the child is 18 years old.

Useful organisations

Useful organisations

For additional local organisations call the Brake helpline (see below) or talk to your Family Liaison Officer.

Charities for road crash victims:

Brake

Brake supports and helps people bereaved and injured by road crashes and campaigns for road safety. The charity's national freephone helpline is a quality accredited service providing emotional and practical support, information, and access to local face-to-face support services, legal help and people who have suffered a similar bereavement. Its helpline officers can also speak on your behalf to officials to ensure your voice is heard, and help you access services available to you. Brake coordinates Road Safety Week, and runs road safety education programmes in schools, communities and companies. The charity also encourages government to improve road safety legislation and enforcement.

The charity provides many volunteering opportunities for bereaved families. Helpline 0808 8000 401 (Mon-Fri 10am-4pm) or helpline@brake.org.uk

To donate, join, or volunteer, go to www.brake.org.uk or call 01484 559909.

RoadPeace

RoadPeace provides support and information to people bereaved or seriously injured by a road crash. They offer practical support with post-crash guidance reports and informative briefing papers; emotional support through a helpline and their befriender scheme (coordinated by staff with volunteers who have been affected by road death or injury); and advocacy assistance to support evidence-based campaigns for the improvement of post-crash responses. The charity coordinates remembrance activities, including Remember Me roadside plaques, and provides the bereaved and seriously injured with access to a network of peer support. RoadPeace promotes road danger reduction and updates to the justice system to make the legal standards and sentences after a crash fit for purpose. The charity supports active travel opportunities that give greater consideration to vulnerable road users and the environment.

Helpline 0845 4500 355 (Mon-Fri 9am-5pm) or helpline@roadpeace.org
Office 020 7733 1603 or info@roadpeace.org
www.roadpeace.org

SCARD (Support and Care after Road Death and Injury) working with CADD (Campaign Against Drinking and Driving)

Two charities working together to provide emotional and practical support to those who have lost a loved one, or been injured or affected by drunk or reckless driving. SCARD offers a helpline staffed by volunteers 365 days a year and access to free, face-to-face counselling sessions and legal advice. It also provides information on coroners and inquests, criminal and civil law, appeals and private prosecutions and can offer road safety education workshops for schools and organisations. With its sister charity CADD, SCARD offers road safety education and awareness-building workshops to groups and individuals, including anti-drink-drive workshops. SCARD holds an annual Oakleaf memorial service to remember road crash victims. Helpline 0345 123 5542 (7 days a week, 9am-9pm including bank holidays)

Office enquiries 01484 723649 / 01924 562252 or info@scard.org.uk
www.scard.org.uk

Other organisations campaigning for road safety:

BUSK

Works to improve the safety of children and young people travelling by bus, coach, taxi and car. Offers support and guidance for parents about safety issues, legislation and the hiring of transport. Produces educational material for schools and co-ordinates School Transport Safety Week. Can put bereaved families in touch with other bereaved families.

Call 01633 274944 or email buskuk@uwclub.net
www.busk-uk.co.uk

RoSPA (Royal Society for the Prevention of Accidents)

RoSPA's road safety department raises awareness about the causes of road crashes and promotes measures to help prevent them. This charity does not provide support services for road crash victims.

Call 0121 248 2000 or email help@rospa.com
www.rospa.com

Organisations supporting people bereaved by any cause:

Cruse Bereavement Care

Call 0808 808 1677 or go to www.cruse.org.uk

For children and young people go to www.hopeagain.org.uk

The Samaritans

The Samaritans operates a 24-hour helpline for anyone in need. Call 116 123 or go to www.samaritans.org

If your partner has died:

WAY (Widowed and Young)

www.widowedandyoung.org.uk

If a child or a child's relative has died:

Child Bereavement UK

Call 0800 02 888 40 or go to www.childbereavementuk.org

Child Death Helpline

Call 0800 282 986 or 0808 800 6019 if calling from a mobile or go to www.childdeathhelpline.org.uk

The Compassionate Friends

Call 0800 282 986 or 0808 800 6019 if calling from a mobile or go to www.childdeathhelpline.org.uk

Care for the Family

Call 029 2081 0800 or go to www.careforthefamily.org.uk

Winston's Wish

Call 08088 020 021 or go to www.winstonswish.org.uk

Organisations campaigning for sustainable transport:

Campaign for Better Transport

Promotes sustainable and public transport.

www.bettertransport.org.uk

Living Streets

Promotes safety and accessibility for pedestrians.

www.livingstreets.org.uk

Sustrans

Develops paths for walkers and cyclists.

www.sustrans.org.uk

Government bodies with responsibility for road safety:

The government bodies listed below have responsibility for road safety regulation and education. You may wish to contact the relevant organisation directly if you have a road safety concern.

The Department for Transport

The Department for Transport is responsible for road safety policy including giving guidance to local authorities (on topics such as setting local speed limits) and reviewing road safety legislation (such as the drink-drive limit). It also commissions road safety research and runs publicity campaigns. It oversees several agencies (see below). The department's road safety work is led by the Road Safety Minister.

www.gov.uk/dft

The Welsh Government

The Welsh Government is responsible for some aspects of transport and road safety in Wales, including maintenance of motorways and major trunk roads.

www.gov.wales/transport

Highways England

Highways England is the agency responsible for operating, maintaining and improving all motorways and major trunk roads in England.

www.gov.uk/government/organisations/highways-england

Local authorities

Local authorities are responsible for local roads that are not motorways or major trunk roads. Local authority highway engineers oversee local roads' design, repair, markings and speed limits. Local authority road safety officers run pedestrian and cycle training for children, manage school crossing patrols and run local publicity campaigns. Contact your local authority for more information.

Driver and Vehicle Licensing Agency

The DVLA is responsible for licensing and registering drivers and vehicles and collects vehicle excise duty (tax).

www.gov.uk/dvla

DVSA (Driver and Vehicle Standards Agency)

DVSA is responsible for annual testing of vehicles and enforcement checks on the maintenance standards of lorries, buses and coaches, and their compliance with laws including drivers' hours rules. It is also responsible for driving tests and promoting road use rules such as the Highway Code.

www.gov.uk/dvsa

Traffic commissioners

Traffic commissioners are regionally appointed officials responsible for licensing companies to operate lorries, buses and coaches. Traffic commissioners have powers to issue and take away an operator's licence. For your local traffic commissioner go to www.gov.uk/traffic-commissioners.

Pages 71 and 72 have contact details for agencies relevant to policing and justice issues.

Your political representatives

If you are worried about a particular local traffic problem your local councillor may be able to help. You can find their contact details by phoning your local authority.

Your Member of Parliament (MP)

Your MP's job is to represent your interests in Parliament. You may want to write to or meet them to discuss any aspect of your case which you think they could act upon. You can find out the name of your MP by going to the website www.parliament.uk and clicking on 'contact us' and then entering your postcode in the box on the right or by calling Parliament on 020 7219 4272.

You can also call the freephone enquiry service on 0800 112 4272 or email hcenquiries@parliament.uk

Your Welsh Assembly Member (AM)

If you live in Wales, your Assembly Member may be able to help. You can find the contact details of your AM by visiting www.assembly.wales/members.

Your local Citizens Advice can provide access to free, impartial and confidential advice, including on financial and legal matters.

For your local branch go to www.citizensadvice.org.uk.

To contact the Citizens Advice Witness Service, call 0300 332 1000 or go to www.citizensadvice.org.uk/witness.

Acknowledgments

This guide is written and produced by the charity Brake, thanks to funding provided by the Ministry of Justice and a number of Police and Crime Commissioners across England and Wales. It is prepared in partnership and open consultation with families bereaved by road crashes and representatives from a range of organisations including:

APIL (The Association of Personal Injury Lawyers)
 Association of Clinical Pathologists
 Association of Natural Burial Grounds
 British Association for Counselling and Psychotherapy
 College of Policing
 Coroners' Society of England and Wales
 Citizens Advice
 Crown Prosecution Service
 Foreign & Commonwealth Office
 HM Courts and Tribunals Service
 Home Office
 INQUEST
 Institute of Psychiatry, Kings College
 Magistrates' Association
 MASS (Motor Accident Solicitors Society)
 Ministry of Justice
 National Association of Funeral Directors
 National Institute for Health and Care Excellence
 The National Police Chiefs Council (NPCC)
 National Probation Service
 National Society of Allied and Independent Funeral
 Directors
 Natural Death Centre
 Newham University Hospital Multifaith Department
 NHS Blood and Transplant
 Restorative Justice Council
 Royal Cornhill Hospital, Aberdeen
 Slater and Gordon Lawyers
 STEP
 University Hospital of Wales
 Victim Support
 West Yorkshire Police

Index

A

alcohol, 14, 34, 42, 61
 appeal, 38, 62, 63, 71
 autopsy (see post mortem)

B

bail, 38, 62
 benefit claims, 26
 Bereavement Register, the, 27
 body, 13-16, 22-24, 32, 67
 burial, 15, 22-25, 32, 67, 79

C

cause of death, 14-15, 67-69
 Citizens Advice, 25, 26, 51, 88
 claims management company, 76
 compensation, 18, 20, 21, 25, 35, 67, 69, 74-82
 complaint, 30, 71-73, 76
 coroner, 14-16, 18, 20-22, 67-71
 corporate homicide, 45
 corporate manslaughter, 45
 court, 33, 36-39, 51-73, 82
 court procedures, 55-61
 Crown Court, 40-46, 48, 50, 55, 57, 58, 62
 Magistrates' Court, 41, 43, 46-50, 55-57
 Supreme Court, 63
 trial, 40-50, 55, 68
 Youth Court, 59
 cremation, 15, 22-25, 67, 79
 criminal charge, 18, 35-39, 63, 67, 69
 Crown Court (see court)
 Crown Prosecution Service (CPS), 36-39, 53-54, 56-58, 62-63, 67, 73

D

dangerous driving, 38, 46-48, 50
 causing death by dangerous driving, 40, 41, 47
 death abroad, 25, 32, 76
 death certificate, 20, 67
 DNA sample, 13

disqualified driver, 41-50
 drink driving, 42
 driving licence, 21, 38, 40-50
 unlicensed drivers, 43
 driving offences, 39-50
 drugs, 14, 34, 42

E

evidence, 18, 34, 35, 56, 58, 70
 giving evidence in court, 33, 54, 56
 giving evidence at an inquest, 68, 69

F

Facebook (see social media)
 faith (see religion)
 family liaison officer (see police)
 financial advice, 26, 76
 funeral, 16, 22-25, 32, 64, 79, 81

H

harassment, 27, 30
 helpline, 1, 31-32, 66, 73, 83
 hit and run, 46

I

inquest, 25, 67-71
 insurance, 24, 32, 77
 dealing with insurers, 20-21, 76,
 paying for burial or cremation, 24
 uninsured drivers, 43, 50, 74
 interim payment, 26, 76
 interview, 30, 33, 35
 investigation (see police)

J

joyriding, 46
 judicial review, 39

L

legal aid, 32, 39, 50

M

Magistrates' Court (see court)
 manslaughter, 44, 45, 47
 media, 28-30, 52, 70
 medical report, 18
 memorial, 17, 22, 24, 31
 murder (see also corporate homicide), 44

O

organ donation, 14
 organ sample, 15

P

Patient Advice and Liaison Service (PALS), 17-18
 personal belongings, 16, 34
 photograph, 13, 28, 29, 31, 53
 photographic evidence, 18, 34, 35, 56, 58, 70
 police,
 family liaison officer (FLO), 1, 17, 29, 71
 police investigation, 13, 16, 18, 19, 27, 33-39
 police report, 35
 police standards and guidelines, 1, 17, 29, 35
 post mortem, 14-16, 25, 34, 67
 prison sentence, 36-38, 55-66
 probate, 25
 probation service, 64, 66
 prosecution, 35-38, 50, 53, 55-56, 62-63, 68

R

registering a death, 20-21, 32, 67
 religion, 22, 23, 68
 restorative justice, 61

S

second post mortem (see post mortem)
 sentencing, 60-61, 64
 social media, 27
 solicitor, 18, 25-28, 31, 32, 35, 68-70, 78-82
 choosing a solicitor, 20, 25 74-77

special measures (see witness)
 statement,
 media statement (see media)
 victim statement, 18, 33, 36, 37, 54, 60, 69
 witness statement, 57, 58

T

Tell Us Once service, 21
 telling people, 21
 tissue donation, 14
 tissue sample, 15
 toxicology test, 14, 34
 trial (see court)
 Twitter (see social media)

V

verdict, 57-59, 62
 Victim Contact Scheme, 66
 video, 13, 28, 29, 31, 61
 video evidence in court, 34, 53, 54, 56, 58

W

will, 22, 25
 witness, 28-29, 35
 acting as a witness, 51-58, 63, 68
 special measures for vulnerable witnesses, 54
 Witness Care Unit, 51, 54,
 Witness Service, 51, 52, 54

Y

Youth Court (see court)



Brake, the road safety charity is limited
as a company by guarantee.
Registered in the UK No. 3260243
Registered Charity No. 1093244
ISBN No. 978-1-906409-52-4
Published by Brake
Author: Mary Williams OBE

Disclaimer: This guide is for information purposes only. While it outlines processes of law and procedure, it does not aim to fully describe all aspects of law and procedures, and laws and procedures may also change.

Brake is committed to continuous improvement. Any comments on this guide's content are welcomed and can be sent in writing to:
Brake, PO Box 548, Huddersfield HD1 2XZ
or e-mailed to brake@brake.org.uk
Helpline 0808 8000 401

COPYRIGHT NOTICE

© **Brake 2019**

All worldwide rights reserved. No part of this publication or its design may be reproduced, stored in a retrieval system or transmitted in any form by any other means whatsoever: i.e. photocopy, electronic, mechanical recording or otherwise without the prior written permission of the copyright holder.

Printed by E petch Printers Ltd 0161 303 9482

Working in partnership

This pack is produced by the charity Brake, thanks to funding provided by the Ministry of Justice



Brake helpline 0808 8000 401

helpline@brake.org.uk

Go to www.brake.org.uk/support for this pack online

For a children's support book call 0808 8000 401

Brake, PO Box 548, Huddersfield HD1 2XZ

Administrative enquiries: 01484 559909

ISBN No.: 978-1-906409-52-4

Published by Brake

Author: Mary Williams OBE

Registered charity No. 1093244

©Brake 2019