

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

Produced by



For more help and emotional support call our helpline

**0845 603 8570**

or email [helpline@brake.org.uk](mailto:helpline@brake.org.uk)

Go to [www.brake.org.uk](http://www.brake.org.uk) for this pack online

# 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.

## 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 the ringbound pages in this guide provide 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.

## 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 0845 603 8570 or [helpline@brake.org.uk](mailto:helpline@brake.org.uk) or turn to the section labelled 'Useful organisations'.

For information about support you can expect from the police, turn to page 1.

**If you need extra copies of this guide for others,  
call the Brake helpline on 0845 603 8570.**

**You can go to [www.brake.org.uk/support](http://www.brake.org.uk/support)  
for this guide online.**



## Contents

### Your contacts and notes

1- 12

### What happens now?

#### What happens to a loved one's body

13-16

#### What happened in the crash

17-18

### Practical issues

#### Informing people

19-20

#### Burials or cremations

21-23

#### Legal issues

24

#### Personal finance

25-26

#### The media

27-29

#### Memorials

30

#### If the crash happened abroad

31

### Criminal charges

#### The police

##### investigation

32-34

#### The Crown Prosecution

##### Service and your right

##### to be heard

35-36

#### Charging someone

37

#### Criminal charges

##### that may follow

##### death on the road

38-49

## Contents

### Court cases

Attending court 50-52

If you are asked to  
be a witness 53

Court procedures 54-60

Appeals 61-62

Prisoner release 63-64

Inquests 65-68

Having your say  
about the Criminal  
Justice System 69-70

### Your solicitor and claiming money

Hiring a solicitor 71

Claiming compensation 71-72

Types of fatal  
motor claim 73-74

Fatal motor claim  
procedures 75-76

Working with  
your solicitor 77

Paying your solicitor 78-79

Useful  
organisations 80-84

### 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 following death on the road in Scotland* (if the crash happened in that country)
- *Information and advice 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*
- *What happens in an Intensive Care Unit?*

You can obtain any or all of these guides by calling the Brake helpline on 0845 603 8570 or view online at [www.brake.org.uk/support](http://www.brake.org.uk/support)

# 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 police contact

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.

Police contact name .....

Station phone number .....

Mobile number .....

Pager .....

Times they can be contacted .....

## Your right to police support

The Government's *Code of Practice for Victims of Crime* (section 5) requires police to give you the guide you are reading now and, if there is a suspicion a crime may have been committed, assign an FLO to you. The Code also requires the police to keep you informed of interviews with criminal suspects, notify you of someone being charged with an offence in relation to your case, and tell you any criminal court dates following these charges. Police standards when liaising with you are also laid out in two other documents, *Family Liaison Officer Guidance* and the *Road Death Investigation Manual*. All three documents can be downloaded from [www.brake.org.uk/support](http://www.brake.org.uk/support) or ask your police contact.

**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 .....

**Coroner's office** (see page 65)

Name .....

Phone .....

**Hospital or mortuary staff**

Name .....

Phone .....

**Funeral organiser**

Name .....

Phone .....

**Witness Care Unit**

Name .....

Phone .....

## Solicitor helping you with a compensation claim (see page 72)

Name .....

Phone .....

## Charities and other organisations helping you

(see page 80 for contact details)

Organisation .....

Name .....

Phone .....

Organisation .....

Name .....

Phone .....

Organisation .....

Name .....

Phone .....

Organisation .....

Name .....

Phone .....

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

Organisation .....

Name .....

Phone .....

Organisation .....

Name .....

Phone .....

Organisation .....

Name .....

Phone .....

**Faith or spiritual leader**

Name .....

Phone .....

**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.**

A series of horizontal dotted lines for writing notes.







A series of horizontal 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
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?	18

### Donation of organs or tissue

You may or may not want to consider donation of organs or tissue from a loved one's body to help others live. This may be possible even if a loved one died at the roadside rather than in hospital.

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. **Call 0800 432 0559.** (If you live in south Wales call 029 2074 4124.)

If someone who died had expressed a wish for their organs or tissue to be donated after their death by joining the organ donor register, then medical staff will not need anyone's consent to do this but will still want to talk to close relatives.

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.

## Seeing a loved one's body

After someone dies 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 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, or by photograph or a video recording.

## 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. It is usually carried out by a specialist doctor called a pathologist.

A post-mortem examination is carried out on behalf of the coroner. The coroner is the public official who investigates all sudden deaths (see page 65). Usually the coroner asks the pathologist to surgically 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 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 rarely a body can be scanned instead.

A post-mortem examination can also include a toxicology report. This means that blood and tissue are examined to find out if they contain any toxic substances, such as alcohol or drugs, which may have contributed to the death.

**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, you should be told 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 instruct a second post-mortem examination, carried out privately for you, by a pathologist of your choice. This requires the agreement of the coroner. If you have a solicitor (see page 24) they will be able to instruct a pathologist on your behalf and advise you of any cost. Alternatively, you can talk to the coroner.

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.

## Organ or tissue retention

Some post-mortem examinations involve the taking of 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. Rarely, a pathologist may need to retain temporarily and more closely examine a whole organ to help them confirm the cause of death.

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), buried or cremated later (so you can proceed with a burial or cremation of the body earlier), or be disposed of by the pathologist in a respectful way. The coroner (see page 65) should explain these options to you and discuss what you want to do. Sometimes medical staff want to retain and use organs or tissue for research, education or training purposes. They can only do this with the prior authorisation 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 through [www.brake.org.uk/support](http://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 take place once the coroner has given permission. 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.

## 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.

**If a loved one died at the crash site, rather than in hospital, the pathologist may be able to tell you, if you want to know, about the likely speed of death.**

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.

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 first because the clothes may carry the smell of that person. 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 the police 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 to you if you want them.

In some cases, it may not be possible to claim damaged clothing because it has already been disposed of by medical or mortuary staff.

**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](http://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, such as pyjamas, 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 30 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 your 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 or at [www.pals.nhs.uk](http://www.pals.nhs.uk). Alternatively, your GP may be able to find out 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 24) 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.**

## Why did the crash happen?

It is common to want to know straight away what happened. There will be an investigation into the crash by the police (see page 32). If it appears someone is to blame, criminal charges may be brought (see page 35).

**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.**

## 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 24) think this is necessary. If you wish to do this, talk to your police contact. A list of crash investigators who can examine a vehicle is available from the website [www.itai.org](http://www.itai.org) or call 0845 621 2066**

# Practical issues

# Practical issues

## Informing people

Registering a death	19
Talking to motor insurers	19
Telling others	20

## Burials or cremations

Arranging a burial or cremation	21
Using a funeral director	21-22
Burial grounds and ashes	22
Coffins and shrouds	22
Paying for a burial or cremation	23

## Legal issues

Hiring a solicitor	24
Wills	24

## Personal finance

Benefits	25
Debts	25
Stopping unwanted mail	26

## The media

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

## Memorials

### If the crash happened abroad

How can British Consular staff can help?	31
Paying for funerals abroad or bringing a body back to the UK	31

## Registering a death

You don't have to register a death on the road yourself. A coroner (the person who investigates all sudden deaths) will contact a registrar (the person who registers deaths) to arrange the registration.

Before a death is registered, the coroner may issue an 'interim certificate of fact of death'. This certificate can help you deal with any urgent financial matters, such as moving money between bank accounts, or claiming benefits (see page 25).

There may be some things you can't do until a death is registered, such as deal with any will. The coroner will be able to tell you when a death is likely to be registered. Your police contact can tell you how to get in touch with the coroner. Go to page 65 for more information about coroners and their role.

**For general advice from the Government on what to do after a death, go to [www.direct.gov.uk](http://www.direct.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 32).

The motor insurer may offer you a solicitor to help you find out if you have a compensation claim. It is your decision whether you choose this solicitor or a different solicitor. See page 72 for important advice on choosing the right solicitor for you.

**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 (if a person who died was living in a council house);
- utility providers (for example, gas, electricity and phone) if a person who died lived alone;
- benefit providers (see page 25);
- 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 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. You can visit your local authority website to see if this is available in your area, or go to [www.direct.gov.uk](http://www.direct.gov.uk) and search for 'Tell Us Once', or speak to your coroner or registrar.**

## Arranging a burial or cremation

A body's burial or cremation can take place once a coroner has given permission (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 24) 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.**

## 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, 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: 0845 230 1343 W: [www.nafd.org.uk](http://www.nafd.org.uk)
- National Society of Allied and Independent Funeral Directors  
T: 0845 230 6777 W: [www.saif.org.uk](http://www.saif.org.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. You can get advice on managing arrangements yourself from the charity the Natural Death Centre. Go to [www.naturaldeath.org.uk](http://www.naturaldeath.org.uk) or call 01962 712690.

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.

## **Coffins and shrouds**

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

## 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:

- no-one has the money to pay. (Ask your local Jobcentre Plus office as soon as possible whether the Government can help you pay. You can also find information on [www.direct.gov.uk](http://www.direct.gov.uk));
- 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 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 72).

**The Natural Death Centre can advise you on ways to lower the cost of a burial or cremation. Phone 01962 712690 or go to [www.naturaldeath.org.uk](http://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. In many cases, you will not have to pay a solicitor working for you.

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 71). 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 page 71 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 someone 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.justice.gov.uk](http://www.justice.gov.uk) and search for 'probate'.

A will appoints someone (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. 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. The Society of Trust and Estate Practitioners provides details of solicitors who specialise in wills. Go to [www.step.org](http://www.step.org) or phone 020 7340 0500.

**If you need advice about a will but cannot afford a solicitor contact your local Citizens' Advice Bureau or law centre for free advice. For the law centre nearest you go to [www.lawcentres.org.uk](http://www.lawcentres.org.uk) or call 020 7842 0720.**

## Benefits

Some people qualify for benefits after being bereaved. You may be able to claim benefits for all sorts of reasons, but claimants include some people whose partners have died or who are bringing up children on a low income.

If a person who has died was claiming benefits, such as a state pension, or if you were receiving benefits for them, such as child benefit, you need to let their benefits office know about the death and return any benefit books.

**To find out if you can claim any benefits, contact your local benefits office as soon as possible. The benefits helpline 0800 055 6688 can give you the phone number and address of your local benefits office. You can also go to the website [www.direct.gov.uk](http://www.direct.gov.uk) for information on benefits. You can also contact your Citizens' Advice Bureau for free advice (see page 84).**

## Debts

You may have worries about debt or managing your finances. If you have problems making loan repayments (such as a credit card or a mortgage) or paying bills (such as rent) it is a good idea to try to tell the relevant organisations before payments become overdue. You are unlikely to be able to arrange for a debt to be cancelled but it may be possible to arrange a short break from payments or 'interest only' payments.

If you need to borrow money, make sure you are being offered a competitive interest rate.

Try not to ignore bills or debts. If you do ignore them, you could eventually be taken to court. For advice on debt, call the national debt helpline on 0808 808 4000 or go to [www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk)

**If you find yourself in financial difficulties, contact your Citizens' Advice Bureau for free advice (see page 84). If you are pursuing a claim for compensation, it is sometimes possible to obtain an early partial payment. Your solicitor can advise you (see page 71).**

## 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.the-bereavement-register.org.uk](http://www.the-bereavement-register.org.uk)

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

- Telephone Preference Service (0845 070 0707 or [www.tpsonline.org.uk](http://www.tpsonline.org.uk))
- Mailing Preference Service (0845 703 4599 or [www.mpsonline.org.uk](http://www.mpsonline.org.uk))
- Fax Preference Service (0845 0700 702 or [www.fpsonline.org.uk](http://www.fpsonline.org.uk))

You may have to re-register with these services every few years.

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

## Your case in the media

Journalists from newspapers, or radio or TV programmes, often want to cover crashes and court cases. 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 a wareness 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 24) or the police (see next page) may be able to help you liaise journalists.

**Ask your police contact or your solicitor (see page 24) 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](http://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. 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 Press Complaints Commission code of practice governs newspaper or magazine journalists. To read this code or complain if you think a journalist has broken this code, and to access a PCC leaflet for bereaved people about dealing with media attention, go to [www.pcc.org.uk](http://www.pcc.org.uk) or call 020 7831 0022.
- The Office of Communications' 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](http://www.ofcom.org.uk) or call 0300 123 3333.

**Some people bereaved by a road crash wish to campaign for road safety. Pages 80 to 81 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 permanent or large 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 permanent or large 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 your police contact, solicitor, or one of the support agencies listed on pages 16 to 18 of the enclosed yellow book, *Coping with grief*, to talk on your behalf to your local authority about roadside memorials.

**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. The Brake helpline can put you in touch with these services, call 0845 603 8570.

## If the crash happened abroad

If a loved one died abroad, there may be many added complications, such as language barriers and different legal procedures. Support is provided by British Consular staff based abroad at British embassies, High Commissions and Consulates, and in London in the Consular Directorate of the Foreign and Commonwealth Office (FCO).

If you haven't been told who you can speak to, you or your police contact can call the FCO on 020 7008 1500.

Your police contact or solicitor (see page 24) may be able to talk to these officials on your behalf if you want them to.

## How can British Consular staff help?

These officials can help you in several ways. They can:

- help you to organise a cremation or burial in the country in which your loved one died, or help you to arrange for their body to be returned to the UK;
- help you to transfer money from the UK to pay any necessary costs;
- keep you informed of any procedures that local officials carry out, such as a post-mortem examination or police investigation, and help you understand these procedures and raise any concerns you have;
- provide you with contact numbers for local interpreters or lawyers and give you information about any available local funding for legal help;
- stay in touch with you, and also put you in touch with any support groups.

British Consular staff cannot investigate deaths abroad nor give legal advice. If you have concerns about legal issues, a UK-based solicitor with experience of dealing with deaths abroad can advise you (see page 24).

## Paying for funerals abroad or bringing a body back

The FCO cannot pay any of your costs abroad, such as funeral costs or the costs of transporting a loved one's body. However, it may be possible for you to claim back these costs as part of a claim for compensation or from an insurance policy, such as travel insurance. For this reason, it is important to keep receipts and consult a solicitor (see page 24).

# Criminal charges

# Criminal charges

## The police investigation

Giving a statement	32
Physical evidence	33
Medical evidence	33
If the crash involved someone driving for work	33
The police report	34

## The Crown Prosecution Service and your right to be heard

The Crown Prosecution Service	35
Meeting the Crown Prosecution Service	36
Victim Personal Statements	36

## Criminal charges

Charging someone and the possibility of bail	37
Changes to charges	38

## Criminal charges that may follow death on the road

Causing death by dangerous driving	39
Causing death by careless or inconsiderate driving	40
Causing death by careless driving when under the influence of drink or drugs	41
Causing death by driving: unlicensed, disqualified or uninsured drivers	42
Murder and manslaughter charges	43
Wanton or furious driving causing bodily harm	43
Corporate manslaughter and corporate homicide	44
Gross negligence manslaughter by company employees	44
Aggravated vehicle taking	45
Failing to stop or report an accident	45
Charges for killing someone by using a defective vehicle	46
Charges that do not mention death or injury	47
Driving otherwise than in accordance with a licence	48
Driving while disqualified	48
Driving without insurance	48

## Charges against people who were not driving:

Aiding and abetting	49
---------------------	----

Bringing a private prosecution	49
--------------------------------	----

## 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, and then to submit this evidence to the Crown Prosecution Service. 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 prior to, or subsequent to, 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 helper.

**If you give a statement, you may or may not be required, at a later date, to give evidence in court. See page 53 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 18). 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](http://www.hse.gov.uk)

## Can I see the police report?

When police investigations have finished, the evidence is compiled into a report which is submitted to the Crown Prosecution Service (see next page). You are not 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 24) 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 *Road Death Investigation Manual*. You can access this through [www.brake.org.uk/support](http://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. 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. It must be in the public interest to prosecute. If someone has died as a result of a crime, a prosecution is normally 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 of evidence of the offence becoming known to them. More serious charges can be brought later.**

## Meeting the Crown Prosecution Service

The CPS may be able to meet with you as part of its Victim Focus Scheme if certain serious charges are being heard in a Crown Court. The CPS will explain charges being brought, give you advice on writing a Victim Personal Statement (see below), and answer your questions. Your police contact should be able to give you a leaflet about the scheme and help you find out if you qualify.

The CPS should also meet with you if a decision has been made to reduce or drop a criminal charge. The CPS are required to do this by the *Code of Practice for Victims of Crime* (section 7.7) (see page 70).

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 its *Code for Crown Prosecutors*.  
Call 020 3357 0913 for a free copy or go to [www.cps.gov.uk](http://www.cps.gov.uk).  
This website includes contact details for your local CPS office and more information on the Victim Focus Scheme.**

## Victim Personal Statements (VPS)

If criminal charges are being considered then you can choose to make a Victim Personal Statement (VPS). This gives you an opportunity to explain in writing how the crime has affected your life. 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. You will not have to read out your VPS in court.

**Ask your police contact if you want to make a VPS. A leaflet about this scheme is enclosed in the back pocket of this guide.**

## 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 can live, or preventing them coming near you or your home or near someone else. A person on bail can also be electronically tagged. However, if an accused person is bailed they will be allowed to continue driving (unless they do not have a valid driving licence). It may or may not be possible to disqualify them later in court.

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 a serious charge is being brought by the CPS, the lawyers representing the accused ask the CPS for the charge to be changed to a less serious charge, 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 prosecuting the accused for the serious charge or may reduce the charge. Their decision is based on the evidence and what is in the public interest. It may include factors such as the availability of witnesses.**

## Criminal charges that may follow death on the road

The following pages list charges that are available to the CPS following death on the road. Many people find it helpful to know that:

- Maximum penalties are fixed by law and are different for different charges, sometimes significantly. Courts often impose penalties lower than the maximum.
- Some charges mention the death or deaths, but others do not. Sometimes the only charges that can be brought by the CPS do not mention the death or deaths.
- Sometimes several charges are brought, sometimes against different people.

## 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 convict them of ‘causing death by careless or inconsiderate driving’ instead (see next page).

**This offence is tried in the Crown Court. The maximum penalty is a prison sentence of 14 years and 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.**

## 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 is 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 an unlimited fine in the Crown Court, or a prison sentence of six months and a fine of £5,000 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, s.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 s/he is, at the time when driving, unfit to drive through drink or drugs, or s/he has consumed so much alcohol that the proportion in his/her breath, blood or urine exceeds the prescribed limit, or s/he refuses to submit a specimen, s/he is guilty of an offence.’

The offence is committed if the driver has more than the legal limit of alcohol or refuses 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.

**This offence is tried in the Crown Court. The maximum penalty is a prison sentence of 14 years and 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.**

## Causing death by driving: unlicensed, disqualified or uninsured drivers

*Section 3ZB of the Road Traffic Act 1988 (as amended by the Road Safety Act 2006, section 21).*

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),
- (b) section 103(1)(b) of this Act (driving while disqualified), or
- (c) section 143 of this Act (using a motor vehicle while uninsured or unsecured against third party risks).'

**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 an unlimited fine in the Crown Court, or a prison sentence of six months and a fine of £5,000 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.**

## Murder and manslaughter charges

### *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 may be brought against a driver who has caused death. The first is called 'unlawful act manslaughter' and 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.

The second type is called 'gross negligence manslaughter' and 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 bad in all ways as to amount to a crime.

**The offences of murder and manslaughter are tried in a Crown Court. Murder carries a mandatory life sentence. Manslaughter has a maximum penalty of life imprisonment. Anyone convicted 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 section 28 the Road Safety Act 2006*

Bad driving offences in the Road Traffic Act must take place on a public road or in a public place. By contrast, the offences of 'Wanton or furious driving causing bodily harm', as well as the charges of murder or manslaughter, can be committed wherever the driving takes place, including, for example, on private land.

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

**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 43) 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 failed. Companies can also be prosecuted for gross negligence manslaughter if an individual found guilty of the offence is a ‘controlling mind’ of the company.

**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 (often called ‘joy riding’ in the media)** *Section 12(A) of the Theft Act 1968*

This offence is committed when a person takes a vehicle without the owner's consent 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 a Crown Court or Magistrates' Court. The maximum sentence in a Crown Court is fourteen years' imprisonment if a death was caused and an unlimited fine. The maximum sentence in a Magistrates' Court is six months' imprisonment and a £5,000 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 (often called ‘hit and run’ in the media)** *Section 170(2) and Section 170(3) of the Road Traffic Act 1988*

A driver involved in a crash causing death or injury is required to stop 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 is committed if a driver doesn't do this.

**This offence is tried in a Magistrates' Court. The maximum penalty is a prison sentence of six months and a fine of £5,000. The driver can be disqualified from driving. If not, their licence must be endorsed with five to ten penalty points.**

## Charges for killing someone by using a defective vehicle

If an unsafe vehicle (for example, a vehicle with defective brakes) has caused a death, then a charge, or range of charges, depending on the case, may be brought against the driver, the owner 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 bring charges of causing death by dangerous driving (see page 39), aiding and abetting (see page 49), or corporate manslaughter (see page 44).

There may be a charge of failing to comply with 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 £5,000. Anyone given a fixed penalty notice must pay a fine of £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 2); and*
- **Careless 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, the CPS may only be able to bring charges of dangerous driving or careless driving, rather than the more serious charges of ‘causing death by dangerous driving’ or ‘causing death by careless or inconsiderate driving’.

**Dangerous driving can be tried in either a Crown Court or a Magistrates’ Court. The maximum penalty is a prison sentence of two years and an unlimited fine in the Crown Court, or a prison sentence of six months and a fine of £5,000 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 a fine of £5,000. The driver can be disqualified from driving. If not, their licence must be endorsed with three to 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.

**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 three to six penalty points.**

## Driving while disqualified *Section 103 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.

**This offence is tried in a Magistrates' Court. The maximum penalty is a prison sentence of six months and a fine of £5,000. 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.

**This offence is tried in a Magistrates' Court. The maximum penalty is a fine of £5,000. Anyone convicted of this offence can be disqualified from driving. If they are not disqualified, their licence must be endorsed with six to 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 also be guilty of driving dangerously. 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, Parliament introduces new charges, or changes the definition of charges, or changes the maximum penalty for an offence. More information on charges and penalties can be found on the Crown Prosecution Service website [www.cps.gov.uk](http://www.cps.gov.uk)**

# Court cases

# Court cases

<b>Attending court</b>	50
Support in court	50
Seeing the accused or their friends around the courthouse	51
Where you can sit in the courtroom	51
What you may see and hear, and what you may feel	52
Understanding what is happening in court	52
Courtroom changes and delays	52
<b>If you are asked to be a witness in court</b>	53
Special measures for vulnerable or intimidated witnesses	53
<b>Court procedures</b>	
Courts where charges are heard	54
Preliminary hearings and length of trials	54
What happens in a Magistrates' Court?	55
Magistrates' Court hearings and trials	55-56
What happens in the Crown Court?	56
Crown Court hearings and trials	56-57
Youth Courts	58
Pleas in mitigation and background reports	58
The verdict	58
Sentencing	59
Community orders	60
Restorative justice	60
<b>Appeals</b>	
Appeals by an offender	61
Appeals by the prosecution	61
Appeals to the Supreme Court	62
When can appeals be lodged?	62
Challenging a decision through judicial review	62
<b>Prisoner release</b>	
Will a prisoner serve their whole sentence?	63
Will I be told when a prisoner is going to be released?	64
<b>Inquests</b>	65-68
<b>Having your say about the Criminal Justice System</b>	69-71

## 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 53). The information below can help you decide if you want to go or not, and help prepare you if you do decide to go.

Your police contact should tell you the date of any criminal court hearing within one working day of knowing the date themselves. This is stipulated in the Code of Practice for Victims of Crime, section 6.4 (see page 70).

## 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 accommodate you although there may be restrictions on space.

The charity Victim Support provides a support service in court for you called the Witness Service. This service helps all victims of crime in court. You don't have to be a witness to use it. The service provides trained volunteers who can support you and give you information about court procedures. They can arrange a pre-trial visit to the court to familiarise you with court facilities and processes. Many people find this helpful. If you are called to be a witness, the Witness Service may be able to sit with you while you give evidence.

For details of your local Witness Service call 0845 30 30 900  
or go to [www.victimsupport.org.uk](http://www.victimsupport.org.uk).

## **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 can accompany you if you need to use the same public areas.

Where possible, it should be arranged 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. Your Witness Service contact can help you arrange this. This facility is outlined in the Code of Practice for Victims of Crime (section 8.4) (see page 70).

## **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 go in until you have given evidence.)

The court is required under the Code of Practice for Victims of Crime (section 8.4) (see page 70), to try to seat you away from any of the accused's friends in court.

**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 accused.

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.

## **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 (section 7.9) (see page 70) 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 32).

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 Crown Prosecution Service and the police. For more information about witness care officers, go to [www.cps.gov.uk](http://www.cps.gov.uk).

You can also go to [www.direct.gov.uk](http://www.direct.gov.uk) and type the word witness into the search box for information on being a witness. This includes an online DVD and downloadable leaflets. 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 live television links, screening (so that you cannot see the accused and they cannot see you), hearings in private, use of an intermediary (someone who relays what you say to a court) and allowing a video-recorded statement to act as evidence at trial.

The court has to follow guidelines regarding who is eligible for special measures. If you want to find out if you can use any special measures, talk to the lawyer who is calling you as a witness. The lawyer has to apply to the court for use of special measures and the court decides whether they will allow you to use them or not.

**The Witness Service run by the charity Victim Support can also help you (see page 50).**

## 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 up to a £5,000 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.

## 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 accused person 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 accused person pleads guilty, the magistrates or district judge will hear the facts of the case before sentencing. If the accused person 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 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 accused person may choose to speak for themselves.

The person speaking for the CPS presents the evidence against the accused person. The lawyer defending the accused person 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 read out instead.

After the evidence has been presented the lawyer for the accused person, or the accused person, makes a closing speech. The CPS has a right to respond on any points of law. The magistrates, or district judge, then consider their verdict. If found guilty, the offender is sentenced. See pages 58 to 60 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?

Cases in the Crown Court are held before a judge. The judge decides on matters of law and the sentence if an accused person pleads guilty or is found guilty after a trial. The judge and the lawyers who present evidence wear robes and some wear judicial wigs.

If the accused person 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 verdict with 10 of the 12 jurors in agreement.

## Crown Court hearings and trials

The accused person must first appear in a Magistrates' Court, where the charge is read out. In some cases, it is decided at this stage that the matter can be dealt with by the Magistrates' Court (see page 54). If not, a date is set for a hearing in the Crown Court.

A first hearing at Crown Court can take place as soon as seven days after the Magistrates' Court appearance if the accused person is in custody and the charge is 'indictable' (see page 54). However, if the accused person is on bail or an 'either way' charge (see page 54) it could take two months or longer.

At the first Crown Court hearing, the accused person 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 accused person pleads guilty the judge will sentence them (see page 59). This may be at a later date. If the accused person 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 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 accused person.

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 accused person 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 58 to 60 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 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 for trial at the Crown Court.

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).

Go to [www.yjb.gov.uk](http://www.yjb.gov.uk) for more information.

## 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.

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.

## 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 an accused person 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, an accused person goes free. Even if new evidence emerges against them, they cannot be tried again (except in very rare circumstances).

## Sentencing

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

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

The judge or magistrates may ask for background information about the offender from the National Probation Service. Sentencing may be delayed to a later date so this background information can be obtained and considered.

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

- pleas in mitigation or the findings of background reports (see above);
- victim personal statements (see page 36);
- 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%;
- the level of sentences in similar cases in the past. This is called case law;
- guidelines on sentencing. The Sentencing Council produces official guidance on sentencing that can be found on the website [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk);
- the powers of the court. A 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 order (see page 60) is appropriate rather than prison.

**A court often does not impose the maximum penalty and sometimes imposes a much lower penalty. If you are unhappy with a sentence and wish to make your views known, you can contact the relevant official in the Courts Service. See page 69 for how to do this. You may also want to contact a road safety charity that campaigns on issues around sentencing. See pages 80 to 81.**

## Community orders

Sometimes a community order is given (often called a community sentence) rather than a prison sentence. This means an offender has to serve their sentence in the community rather than in prison, under the supervision of the probation service.

The judge or magistrates can impose a combination of up to 12 different requirements, such as 40 to 300 hours of unpaid work on behalf of the community, supervision, a curfew, or a requirement to attend an offender training course (for example a course on the dangers of drink driving). If an offender fails to comply with the requirements they may have to go back to court and may receive a different sentence.

**Information about community orders is on [www.direct.gov.uk](http://www.direct.gov.uk)**

## Restorative justice

Restorative justice is about offenders being encouraged to make efforts to make amends directly to the people they have harmed. Restorative justice gives victims a greater voice, allows victims to receive an explanation of offenders' actions from the offenders themselves, and helps make offenders feel responsible for their actions.

An example of restorative justice could include a meeting with an offender that is guided by a facilitator. In this meeting you explain how the crime has affected you and the offender explains their actions and apologises. Another example would be correspondence between you and the offender by letter.

Your involvement in restorative justice is entirely voluntary. If you are offered it, you may want to consider it carefully and how it may make you feel. If you aren't offered restorative justice but you want it to take place, you can talk to the CPS (see page 35) or your police contact. You can also say so in your Victim Personal Statement (see page 36).

**The charity Restorative Justice Council provides further information and advice at [www.restorativejustice.org.uk](http://www.restorativejustice.org.uk)**

## Appeals by an offender

Following a criminal case a convicted person may appeal against their conviction or sentence. 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:**

An appeal by someone against their conviction or sentence in a Magistrates' Court 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.

### **If the case was heard in the Crown Court:**

Many appeals against convictions in the Crown Court are not given permission by the courts to go ahead. 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, acquit the person, or order a re-trial.

## 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 not guilty verdict in the Crown Court. However, if the Crown Court acquits an accused person before evidence has been heard before a jury then the CPS can appeal. The CPS can request the Attorney General to consider referring a sentence imposed by the Crown Court for certain serious charges 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 Attorney General (see page 69) 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.

**You are entitled to be informed of any appeals (see paragraphs 6.12 and 6.13 of the Code of Practice for Victims of Crime) (see page 70). You can ask your police or CPS 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.**

### Challenging a decision through judicial review

A few bereaved families have challenged the Crown Prosecution Service 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.

## **Will a prisoner serve their whole sentence?**

Some offenders will be released automatically half way through their sentence or in some cases earlier.

An offender who is sentenced to less than 12 months will be released automatically half way through their sentence. These offenders are not supervised by the probation service but can still be sent back to prison if, for example, they commit another offence.

An offender sentenced to 12 months or more in prison who is released before the end of their sentence is released 'on licence'. During this time, an offender will be supervised by the probation service. Being on licence means there are conditions attached to their release, such as a curfew or a requirement to live at a particular address or a requirement not to make contact with a victim. If an offender fails to comply with conditions or commits another offence they may be given a warning or have to go back to prison.

Some serious road traffic offenders can be sentenced to life imprisonment or imprisonment for public protection. These are called indeterminate sentences. An offender with an indeterminate sentence has no automatic right to be released. Instead, they must serve a minimum period in prison. This period is announced by the sentencing judge in court. The offender cannot be released before this and, even then, release is not automatic. Before they can be released the Parole Board must be satisfied the risk of serious harm they pose to the public is minimal. If released, the offender will be on licence and supervised by the probation service. They may have to go back to prison if it is considered at any stage they pose a serious risk to the public, if they do not comply with the licence conditions, or if they reoffend.

Some offenders may be released for short periods on 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 life in their community. Prisoners must return to prison at the end of a temporary licence.

In some cases, offenders can be released earlier than half way through their sentence under the Home Detention Curfew Scheme (HDC). Under this scheme, offenders thought to be low risk who are serving sentences of

between three months and less than four years may be released between 15 days and 4½ months earlier than their automatic release date. During the HDC period these offenders are on licence and have to comply with a curfew and wear an electronic tagging device.

**Local probation trusts are responsible for probation services. For more information go to [www.justice.gov.uk](http://www.justice.gov.uk) and search for probation trusts.**

## **Will I be told when a prisoner is going to be released?**

If an offender is sentenced to 12 months or more imprisonment for one or more of a range of certain, serious offences, you will be entitled to receive the victim contact scheme which is operated by the local probation trust.

The Victim Contact Scheme can inform you, if you wish, about key stages in an offender's sentence. This could include when an offender is being considered for transfer to an open prison, or if an offender becomes eligible to be considered for release. The scheme is run by specialist victim liaison staff.

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, an offender may be released with a condition they do not seek to contact you or other people affected by their offence, and it may be possible, depending on the circumstances and the risk they pose, to have a condition prohibiting the offender from going near your home or place of work.

If you want to find out if you are entitled to this scheme, but have not been contacted about it, you can call your local probation trust and ask to speak to the victim liaison team. For details of your local probation trust, go to [www.justice.gov.uk](http://www.justice.gov.uk) and search for probation trusts.

**The Prison Service runs a helpline for people worried about the release of a prisoner or who have received unwanted contact from a prisoner on 0845 758 5112 between 9am and 4pm, Mondays to Fridays. You can also write to the National Offender Management Service Victim Helpline, PO Box 4278, Birmingham, B15 1SA**

## Coroners

Coroners are independent judicial officers who investigate unnatural, sudden or violent deaths. This includes all deaths on the road. Coroners are qualified as lawyers or doctors (or both) and appointed locally by councils.

The coroner is required to find out who has died and how, when and where they died.

To help them reach their conclusions, the coroner will often order a post-mortem examination (see page 14). The coroner will also often hold an inquiry called an inquest (see below).

The coroner is responsible for authorising the release of the body for burial or cremation and issues the relevant paperwork to register a death (see page 19).

It is important to remember that the coroner cannot find someone guilty of a criminal offence, nor disagree with the findings of a criminal court. The coroner also can't determine liability under civil law. That is the role of the civil courts (see page 72).

**Coroners are assisted by a coroner's officer. Part of their role is to give you information and answer any questions you may have about the coroner's investigation. You can ask to talk to this officer at any time. Your police contact can tell you how to contact the coroner's officer.**

## Inquests

An inquest will always be opened following a death on the road (unless the coroner is satisfied the death was due to natural causes).

An inquest is heard in a courtroom, which might be in a court building but could be in another building such as a town hall. It is usually heard by a coroner without a jury. In rare cases a jury is called. This may happen in certain cases that raise issues of public safety or when a crash followed a police pursuit.

## Opening and adjournment of an inquest

When a coroner opens an inquest, they will hear evidence about the identity of the person who died and other basic details surrounding what happened.

If someone is likely to face criminal charges for causing the death, the coroner will usually adjourn the inquest until after criminal proceedings have finished. If the coroner then thinks that all the facts of the case were dealt with by the criminal courts, the coroner will usually close the inquest at that stage.

**If you think a criminal court failed to discuss all the facts relating to why a death happened, you, or a solicitor representing you (see page 24), can ask the coroner to consider continuing with an inquest. The coroner will decide whether they should do this or not.**

## What happens at an inquest?

At an inquest, a coroner finds out facts about a death.

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 eye witnesses. 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 24), 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 and be sworn in as a witness and face questions, although they have the right not to answer questions that may incriminate them.

Once witnesses have given evidence to the coroner, witnesses may also be questioned by other people, known as 'properly interested persons'. This could be you, or someone else close to the person who died, or a solicitor representing you (see page 24). All questions must be about the facts of the death.

A coroner may also allow a lawyer representing someone accused of a criminal offence in connection with the crash to ask a witness questions about the facts of the death.

The coroner, or the jury if there was one, will then reach a verdict. They may reach a 'short' verdict that a death was accidental, unlawful, or natural. In other cases, a 'narrative' verdict is reached, which means the circumstances leading to a death are described but there is no verdict as to whether the death was accidental, unlawful or natural. In other cases both a short and a narrative verdict are reached. An 'open' verdict can also be reached, which means there wasn't enough evidence to reach any other verdict.

An accidental death verdict may be reached in a case where someone may have caused the death. This can be upsetting but criminal charges may still be brought (see page 32) and you may still be able to pursue a claim for compensation (see page 72).

**A coroner can write a report (called a Rule 43 report) in which they raise concerns about road safety issues discussed at an inquest and ask that action is taken by organisations (such as local authorities and national government) to prevent future deaths. The coroner cannot force these organisations to take any particular steps to prevent future deaths, but these organisations are required to respond in writing to the coroner. You can ask the coroner to provide you with a copy of a Rule 43 report and the reply or replies they receive. A summary of these reports and responses is also published on [www.justice.gov.uk](http://www.justice.gov.uk).**

**Coroners may also make statements in court about issues of public safety and their thoughts on these issues.**

**You may wish to ask the coroner if they intend to help in such a way. It is up to them whether they do or not.**

## **Attending an inquest**

Inquests are public hearings so you can attend if you want to. You are also entitled to representation by a solicitor at an inquest. See page 66 for information about the role of a solicitor at an inquest and see page 24 for information about hiring a solicitor.

The coroner's officer should inform the next of kin of the date, time and venue of an inquest. If you are not told, you can ask the coroner's officer.

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 officer can arrange this.

Before an inquest, you, or a solicitor acting on your behalf (see page 72), can request to see evidence that is going to be presented at an inquest, to help you, or your solicitor, prepare for the inquest and understand evidence that is going to be presented. The coroner decides whether to allow you to see any evidence.

During the inquest, technical terms may be used. Coroners should try to explain terms so you can understand what is being discussed. You may find some evidence upsetting, for example descriptions of injuries. If you get upset during an inquest, you can leave the courtroom quietly. If you do not want to miss anything, the coroner may be prepared to adjourn the inquest for a short time.

After an inquest is over, it is possible for you, or your solicitor, to obtain a copy of the notes of an inquest. There is usually a charge. Before deciding whether to read all the notes you may want to find out what they contain, in case there is anything you don't want to read or look at because it may distress you.

Because inquests are held in public, someone who may have caused the death, and their friends, may attend. Journalists may also attend and report on what happens and ask to talk to you (see page 27 for information on talking to journalists). You may wish to ask family or friends to attend the inquest with you for support. The coroner's officer can tell you how many seats will be available.

**The coroner's officer can give you a leaflet on coroners and inquests or you can download this at [www.direct.gov.uk](http://www.direct.gov.uk) by typing the word 'inquest' into the search box. If you are attending an inquest in a coroner's court in London or the south east, a charity called The Coroners' Courts Support Service may be able to support you. Go to [www.coronerscourtsupportservice.org.uk](http://www.coronerscourtsupportservice.org.uk) for details of courts where they provide help.**

**The charity INQUEST gives advice about inquests. Visit [www.inquest.org.uk](http://www.inquest.org.uk) or call 020 7263 1111.**

## **Having your say about criminal justice**

If you have a comment or wish to raise a concern about the criminal justice system you can do so. Agencies welcome feedback and you have a right to be heard.

## **Having your say about the police**

If your comments are about a police force, ask that force about their complaints procedure. You can also write to that force's chief constable.

If you are unsatisfied with the reply, you can make a complaint through the Independent Police Complaints Commission at [www.ipcc.gov.uk](http://www.ipcc.gov.uk)

The Home Office is the government department responsible for policing issues. You can write to the Home Secretary at The Home Office, 2 Marsham Street, London, SW1P 4DF. T: 020 7035 4848 or email [public.enquiries@homeoffice.gsi.gov.uk](mailto:public.enquiries@homeoffice.gsi.gov.uk). For more information go to [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

## **Having your say about the Crown Prosecution Service**

If your comments are about the Crown Prosecution Service contact the Chief Crown Prosecutor for the relevant area (find their details at [www.cps.gov.uk](http://www.cps.gov.uk)). If you are unsatisfied with the reply, you can make a complaint through [www.cps.gov.uk](http://www.cps.gov.uk). If you are still unsatisfied, you can contact the Attorney General, the Government's chief legal adviser through [www.attorneygeneral.gov.uk](http://www.attorneygeneral.gov.uk)

## **Having your say about a Court**

If your comments are about staff in a Court, address them to the senior manager of that Court. If you are unsatisfied with the reply, you can write to the Area Director. If you are still unsatisfied, you can write to the Complaint Handling and Enquiries Team, HM Courts and Tribunal Service, 1st Floor, 102 Petty France, London, SW1H 9AJ or email [customerservicecshq@hmcourts-service.gsi.gov.uk](mailto:customerservicecshq@hmcourts-service.gsi.gov.uk).

Decisions by judges and magistrates can only be challenged through an appeal (see page 61 and 62). However, if your comments are about the behaviour of a judge or magistrate (for example, if you think they said something inappropriate in court) you can complain through [www.judicialcomplaints.judiciary.gov.uk](http://www.judicialcomplaints.judiciary.gov.uk)

If your comments are about a Witness Care Unit you should contact that unit.

If you have concerns about the justice system, you can also contact the Ministry of Justice, the government department responsible for justice. You can write to the Lord Chancellor and Secretary of State for Justice at The Ministry of Justice, 102 Petty France, London SW1H 9AJ or email [general.queries@justice.gsi.gov.uk](mailto:general.queries@justice.gsi.gov.uk) For more information go to [www.justice.gov.uk](http://www.justice.gov.uk)

## **The Parliamentary Ombudsman**

The Parliamentary Ombudsman carries out independent investigations into complaints about UK government departments and agencies. If you are not happy with any response to any complaint, you can take it to the Parliamentary Ombudsman through your MP. To find out more, go to [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

**The Code of Practice for Victims of Crime sets out what standards you should expect in your dealings with the criminal justice system. The standards cover access to information, provision of support and participation in proceedings if you are a witness. You can download the code through [www.brake.org.uk/support](http://www.brake.org.uk/support)**

## **Contact a road safety organisation**

**You may wish to contact a road safety organisation that campaigns for criminal justice in road death cases (see pages 80 to 81).**

# Your solicitor and claiming money

# Your solicitor and claiming money

<b>Hiring a solicitor</b>	71
<b>Claiming compensation</b>	72
Can I claim compensation?	72
Why don't I get compensation automatically from the state?	72
Can I make a claim if no-one was charged with a criminal offence?	72
Who pays an award?	72
<b>Types of fatal motor claim</b>	
Dependency claims	73
Bereavement damages	73
The shock suffered by bereaved people	74
The suffering of someone who has died	74
Burial or cremation expenses	74
Claim for injuries	74
<b>Fatal motor claim procedures</b>	
Starting a claim	75
Negotiating your claim	75
Court proceedings	75
Final settlement (Part 36) offers	76
Awards to children	76
<b>Working with your solicitor</b>	
Talking to your solicitor	77
Complaining or changing solicitor	77
<b>Paying your solicitor</b>	78
Legal expenses insurance	78
Paying by conditional fee agreement	78
Paying up front	79
Do not pay by contingency fee	79

## Hiring a solicitor

To find out if you can pursue a claim for compensation you will need to consult a specialist solicitor. 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.

Sometimes very large amounts of money can be claimed, even if no-one was charged with a criminal offence, or even if a responsible driver was uninsured. Only a solicitor will be able to tell you whether a claim is possible or not.

You should be able to meet a solicitor for free to find out if they can help you. In many cases, you will not have to pay a solicitor working for you (see page 79).

It is up to you whether you hire a particular solicitor and it is your right to consult more than one before you decide.

It is important that you understand any agreement you are signing with a solicitor, particularly whether you have to pay them any money (see page 79).

To find out if you might have a claim, it is important to consult a solicitor who specialises in personal injury claims following road death. The following organisations provide lists of personal injury solicitors:

**The Motor Accident Solicitors Society** W:[www.mass.org.uk](http://www.mass.org.uk) T:0117 925 9604

**The Association of Personal Injury Lawyers** W:[www.apil.org.uk](http://www.apil.org.uk) T:0115 958 0585

**Your nearest specialist solicitor may work some distance from your home. However, it is more important to hire a specialist solicitor than a solicitor near you. You can do a lot over the phone and by email and post. Some solicitors can visit you at home.**

## Claiming compensation

### Can I claim compensation?

Claims can only be made by certain people, in certain cases, and for certain things. While many people can make a claim, not everyone is eligible, and not everyone is eligible for the same payments. Your solicitor can advise you.

### Why don't I get compensation automatically from the state?

If you are financially struggling, you may be able to claim state benefits (see page 25). However, there is no automatic compensation for death on the road. Your solicitor has to pursue a fatal motor claim against someone using civil law, with you as the claimant.

### Can I make a claim if no-one was charged with a criminal offence?

Civil law is different to criminal law. In some cases it is possible to establish that someone is responsible for a death on the road under civil law even though that person was not charged, or found not guilty, of a criminal offence.

### Who pays an award?

To succeed, a fatal motor claim requires someone to be found at least partly responsible (liable) for a death and for the liable person to agree to pay you an amount of money (an award of damages).

Awards are usually paid by a liable person's motor insurer, not by the person themselves. If a liable person was uninsured, or is untraceable, then the award is usually paid by a body called the Motor Insurers' Bureau (MIB). You can find out more about the MIB from its website [www.mib.org.uk](http://www.mib.org.uk). In cases of uninsured or untraceable drivers, you will still need legal representation as these cases are often complex.

**An award is made after a process of negotiation or a court ruling.  
Amounts awarded vary from case to case.**

## Types of fatal motor claim

Different types of fatal motor claim 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 on a person who has died can claim for the loss of that support. This is called a 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.

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 employment records and household bills is required to prove dependency claims.**

### 2. Bereavement damages

Some people can claim a payment of £11,800 for their bereavement. Your solicitor can tell you if you can claim.

### **3. The shock suffered by bereaved people**

You may be able to claim money for shock 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 suffering a period of pain then it may be possible to claim money in compensation for that suffering. The amount that can be claimed is based on the amount of time that the person suffered and the extent of the pain.

### **5. Burial or cremation expenses**

Reasonable costs of the burial or cremation and associated expenses such as a gravestone can usually be claimed from a liable party. Keep all receipts.

### **6. Claim for injuries**

If you, or anyone close to you, was 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.

## Starting a claim

You and your solicitor will decide whether you should claim, what claim(s) to submit and how much to claim. You must compile evidence to support your claim(s). A claim must be made by your solicitor within three years from the date of a death. Most claims are submitted much sooner to ensure any award is made as soon as possible.

## Negotiating your claim

Once your case is prepared, your solicitor will ask the insurers of the person from whom you are trying to claim (the other side) if it is willing to pay you money.

If the other side admits liability and agrees to pay you money it may make an offer, or several offers, which are lower than the amount your solicitor thinks you are due. For example, if you are pursuing a dependency claim, the other side may use information in medical and employment records of the person who has died to argue your claim is too high.

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

## Court proceedings

If you are not offered an acceptable award quickly through negotiation, or if liability is not admitted, your solicitor may start legal action (civil proceedings) against the other side. Most civil proceedings are commenced in a County Court but can be commenced in a High Court. If legal action has started, it does not necessarily mean your case will go to court. Your solicitor will continue to try to negotiate a settlement with the other side.

**In some cases, if liability is admitted, an interim payment (or part payment) is made by the other side prior to a final payment, to help cover costs such as funeral expenses.**

## Final settlement (part 36) offers

At any stage during negotiations the other side can offer you an amount in final settlement called a Part 36 offer. You and your solicitor have 21 days to accept or reject a Part 36 offer.

If you reject a Part 36 offer, and the amount you finally receive, through negotiation or the courts, is lower, you may be liable for the other side's legal costs from the date they made the offer. You may not be able to claim your own costs from the date of the offer. (See page 79 for advice on paying your solicitor.)

You can also make a Part 36 offer to the other side, indicating the amount you would be prepared to accept.

Part 36 offers should be carefully considered by you and your solicitor.

**There are many reasons why it may be better to negotiate a settlement out of court. You cannot pre-determine the decision of a judge and success is not guaranteed. Your case may take a long time to be heard. Sometimes, the other side will make an acceptable offer just before a case is heard in court.**

## Awards to children

Cases brought on behalf of children are decided in court by a judge. 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.

**Most claims in which liability is admitted are awarded through negotiation, without the need to go to court. You can refuse or accept any offer made. Your solicitor will advise you whether an offer is reasonable.**

## Working with your solicitor

### Talking to your solicitor

Your solicitor should be able to explain what is happening in straightforward terms and be available to talk to you regularly, over the phone or in meetings. They should be happy to answer any of your questions.

It is a good idea to keep notes of conversations with your solicitor and copies of correspondence so you can keep track of your claim. You can keep a note of your solicitor's name and phone number on page 3.

Ensure you know who is handling your case. Sometimes several people in a solicitor's office may work on your case.

### 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. The organisations listed on page 72 will be able to give you advice about alternatives.

**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](http://www.legalombudsman.org.uk)**

## **Paying your solicitor**

If you are awarded money, the other side will usually have to pay most or all of your legal fees.

The other side will also usually pay for any other costs your solicitor has incurred, as long as these costs were reasonable. These costs, such as the cost of medical reports, are called disbursements. In some cases, the other side may not have to pay these costs. Your solicitor can advise you.

If your claim is unsuccessful, you may be liable for your legal costs and those of the other side. However, there are a number of ways to pay for any legal costs you incur that do not require you to be able to afford to pay much, if any, money.

### **1. Legal expenses insurance**

You, or a person who died, may be insured for legal expenses in the event of a road crash. It is worth checking the details of motor and house insurance policies, credit card policies, benefits of any memberships of trade unions or associations, or employment benefits. Your solicitor can help you to do this.

### **2. Paying by conditional fee agreement**

To protect you in case your claim does not succeed, many solicitors offer a conditional fee agreement, often called a no win, no fee agreement. This means your solicitor only receives payment for their work on your behalf if you win. You do not pay any legal fees up front and you do not pay legal fees if your case is unsuccessful.

In return, you may be advised to buy an insurance policy. The insurance policy (or legal expenses policy), covers you against having to pay the other side's costs and disbursements, and the premium should be reasonably priced. Your solicitor will be able to give you details of insurance policies.

Also, your solicitor may charge a success fee if your case succeeds, in addition to receiving their costs from the other side. The success fee is an additional 12.5% on top of your solicitor's fees. The success fee can be an additional 100% if your case is tried in court.

**Your solicitor's fee, including the success fee, is paid by the other side if you win your case. It should not be deducted from your award except in certain exceptional circumstances, which should be explained to you.**

### 3. Paying up front

Some people choose to pay their solicitor themselves, as they go along.

**However you fund your claim, you will need to consider the possibility of losing your claim. You need to know any costs that you may be liable for in that situation. Your solicitor can advise you.**

### Do not pay by contingency fee

Someone called a claims assessor, claims farmer, or claims management company may offer to handle your claim for a straight percentage of your award, sometimes as high as a third (called a contingency fee). You may see adverts offering these services.

A contingency fee is not the same as a conditional fee, although, confusingly, it may be referred to as a 'no win, no fee' agreement. If you are awarded a lot of money you may have to pay an unreasonably large amount of money to the claims assessor. Sometimes, this is not made clear at the start.

**Claims assessors are not personal injury solicitors. They are neither qualified nor regulated to the standards of solicitors.**



# 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 helpline provides emotional support, information, and access to support workers, counsellors, legal help and people who have suffered a similar bereavement. Its helpline officers can also speak on your behalf to various officials to ensure your voice is heard, and help you access services available to you. Brake coordinates National 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 0845 603 8570 (Mon-Fri 10am-4pm) or [helpline@brake.org.uk](mailto:helpline@brake.org.uk)

To donate, become a Friend of Brake, or volunteer call 01484 559909

or [brake@brake.org.uk](mailto:brake@brake.org.uk)

[www.brake.org.uk](http://www.brake.org.uk)

#### RoadPeace

RoadPeace supports families bereaved and injured in road crashes. RoadPeace provides practical support through post-crash information guides; emotional support through a helpline and befriender scheme (co-ordinated by staff with volunteers who have been affected by road death or injury); and a resilience building programme that helps participants develop coping skills to deal with symptoms of traumatic bereavement. RoadPeace provides advocacy assistance where possible. RoadPeace coordinates remembrance activities, including the World Day of Remembrance for Road Traffic Victims; 'Remember Me' roadside plaques and a Remember Me internet memorial site ([www.remembermememorials.org](http://www.remembermememorials.org)). Trees can be dedicated to loved ones at the RoadPeace Wood at the National Memorial Arboretum in Staffordshire. RoadPeace supports road danger reduction and the promotion of transport policies which give greater consideration to vulnerable road users and the environment.

Helpline 0845 4500 355 (Mon-Fri 9am-5pm) or [helpline@roadpeace.org](mailto:helpline@roadpeace.org)

Office 020 7733 1603 or [info@roadpeace.org](mailto:info@roadpeace.org)

[www.roadpeace.org](http://www.roadpeace.org) and [www.remembermememorials.org](http://www.remembermememorials.org)

## **SCARD (Support and Care after Road Death and Injury) incorporating CADD (Campaign Against Drinking and Driving)**

Two charities working together providing emotional and practical support to anyone bereaved, injured or affected by any type of road death or injury.

It offers a helpline staffed by experienced volunteers 365 days a year.

Additionally it offers literature including on coroners and inquests, criminal and civil law, appeals and private prosecutions. It will also help you access counselling and free legal advice. SCARD offers road safety education workshops for schools and organisations. CADD campaigns for changes to the legal system to deter drink drivers and get justice for those affected by drink-drive incidents. It also offers one-to-one workshops for banned drivers.

Helpline 0845 123 5542 (7 days a week, 9am-9pm)

Phone 0845 123 5543 or [info@scard.org.uk](mailto:info@scard.org.uk) and [info@cadd.org.uk](mailto:info@cadd.org.uk)

[www.scard.org.uk](http://www.scard.org.uk) and [www.cadd.org.uk](http://www.cadd.org.uk)

## **Organisations campaigning on particular road safety topics:**

### **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.

01633 274944 or [buskuk@aol.com](mailto:buskuk@aol.com)

[www.busk-uk.com](http://www.busk-uk.com)

### **Learn + Live**

Works to reduce deaths and injuries among young drivers and passengers by campaigning for improvements in driver training and licensing, including Graduated Driving Licensing. It is run by a bereaved parent and offers advice and support for other families who have suffered the loss of a young person where illegal, drink or drug driving were not involved.

01384 292571 or [office@learnandlive.org.uk](mailto:office@learnandlive.org.uk)

[www.learnandlive.org.uk](http://www.learnandlive.org.uk)

## **Organisations supporting people bereaved by any cause:**

- Cruse Bereavement Care 0844 477 9400 [www.cruse.org.uk](http://www.cruse.org.uk)
- Cruse Bereavement Care for children and young people 0808 808 1677 [www.rd4u.org.uk](http://www.rd4u.org.uk)
- The Samaritans operates a 24 hour helpline for anyone in need on 08457 909090 [www.samaritans.org](http://www.samaritans.org)

## **If your partner has died:**

- The National Association of Widows 0845 838 2261 [www.nawidows.org.uk](http://www.nawidows.org.uk)
- The WAY Foundation 0300 012 4929 [www.wayfoundation.org.uk](http://www.wayfoundation.org.uk)

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

- The Child Bereavement Charity 01494 568900 [www.childbereavement.org.uk](http://www.childbereavement.org.uk)
- The Child Death Helpline 0800 282 986 [www.childdeathhelpline.org.uk](http://www.childdeathhelpline.org.uk)
- The Compassionate Friends 0845 123 2304 [www.tcf.org.uk](http://www.tcf.org.uk)
- Care for the Family 029 2081 0800 or [www.careforthefamily.org.uk](http://www.careforthefamily.org.uk)

## **Organisations campaigning for sustainable transport:**

- Campaign for Better Transport promotes sustainable and public transport. [www.bettertransport.org.uk](http://www.bettertransport.org.uk)
- Living Streets promotes safety and accessibility for pedestrians. [www.livingstreets.org.uk](http://www.livingstreets.org.uk)
- Sustrans develops paths for walkers and cyclists. [www.sustrans.org.uk](http://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.dft.gov.uk](http://www.dft.gov.uk)

### **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.

### **The Highways Agency**

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

[www.highways.gov.uk](http://www.highways.gov.uk)

### **Driver and Vehicle Licensing Agency**

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

[www.dvla.gov.uk](http://www.dvla.gov.uk)

### **Driving Standards Agency**

The Driving Standards Agency is responsible for driving tests and promoting road use rules such as the Highway Code.

[www.dsa.gov.uk](http://www.dsa.gov.uk)

## **VOSA (Vehicle and Operator Services Agency)**

VOSA 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 driver hours' rules.

[www.vosa.gov.uk](http://www.vosa.gov.uk)

## **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.dft.gov.uk](http://www.dft.gov.uk) and search for traffic commissioners.

**Pages 69 to 70 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 [findyourmp.parliament.uk](http://findyourmp.parliament.uk) or calling Parliament on 020 7219 4272.

**Your local Citizens' Advice Bureau 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](http://www.citizensadvice.org.uk)**

# Acknowledgments

This guide is written by the charity Brake and funded by the Ministry of Justice. 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 Chief Police Officers (ACPO)  
Association of Clinical Pathologists  
Association of Natural Burial Grounds  
British Association for Counselling and Psychotherapy  
Centre for Corporate Accountability  
Coroners' Society of England and Wales  
Crown Prosecution Service  
Foreign and Commonwealth Office  
Her Majesty's Courts 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 Clinical Excellence  
National Policing Improvement Agency  
National Probation Service  
National Society of Allied and Independent Funeral Directors  
Newham University Hospital Multifaith Department  
Office for Criminal Justice Reform  
Royal Cornhill Hospital, Aberdeen  
STEP (The Society of Trust and Estate Practitioners)  
UK Transplant  
University Hospital of Wales  
Victim Support

Brake, the road safety charity is limited as a company by guarantee.  
Registered in the UK No. 3260243  
Registered Charity No. 1093244

ISBN No. 978-1-906409-16-6  
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 our address or e-mail.  
**Brake, PO Box 548, Huddersfield HD1 2XZ**  
**or e-mailed to [brake@brake.org.uk](mailto:brake@brake.org.uk)**  
**Helpline 0845 603 8570**

## **COPYRIGHT NOTICE**

© Brake 2011

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 Ministry of Justice funding received  
through the Victim and Witness General Fund

**2011/12**  
Edition



helpline 0845 603 8570

helpline@brake.org.uk

Go to [www.brake.org.uk](http://www.brake.org.uk) for this pack online

Brake, PO Box 548, Huddersfield HD1 2XZ  
Administrative enquiries: 01484 559909

ISBN No. 978-1-906409-16-6

Published by Brake

Author: Mary Williams OBE

Registered charity No. 1093244

©Brake 2011