

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

For more help and emotional support call our helpline

0808 8000 401

or email helpline@brake.org.uk

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

For a children's support book call 0808 8000 401

Produced by



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Introduction

This guide aims to help you if someone close to you 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 Scottish Government.

What to read now

If you have been bereaved in the past few hours or days, turn to the section labelled 'What happens now?' (If you don't feel able to read on right away, ask someone else to read these pages for you.)

The rest of this guide provides information and advice on many other issues you may face at different times.

The yellow book in the front inside cover provides advice on coping after such a terrible bereavement. An audio version is also available to listen to at www.brake.org.uk/support.

Who can help you now

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

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

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

You can go to www.brake.org.uk/support for this guide online, containing direct hyperlinks to the web pages referred to in this guide.

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Other Brake guides

Brake produces other free guides that may be useful to you, depending on your circumstances:

- *Information and advice for bereaved families and friends following death on the road in England and Wales* (if the crash happened in these countries)
- *Information and advice for bereaved families and friends following death on the road in Northern Ireland* (if the crash happened in that country)
- *Someone has died in a road crash* (book for children and their carers)
- *Information and advice for people seriously injured in a road crash*
- *What happens in an Intensive Care Unit?*

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

Your contacts and notes

Your right to support from criminal justice agencies

Your police contact

It is best practice for the police to assign a Family Liaison Officer (FLO) to you. A 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 a FLO, ask if this is possible.

Whether or not your police contact is a 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
- provide compassionate guidance
- keep you informed of the police investigation and any court dates
- help you to manage any contact from the media (see pages 31 and 32)
- with your consent, help to put you in touch with support agencies
- help answer other questions you may have, or direct you towards someone who can.

Best practice procedures for Family Liaison Officers or other officers who are supporting families bereaved by road crashes have been laid down by Police Scotland in their Road Death Investigation Manual. If you want to read this manual, ask your police contact.

Victim Information and Advice

At a later stage, your police contact will withdraw from your case and you may be introduced to a Victim Information and Advice (VIA) officer from the Crown Office and Procurator Fiscal Service (COPFS). This will happen if the Procurator Fiscal is investigating the circumstances of the death and the case may result in criminal charges against someone. VIA can update you about the progress of your case and help you contact other support agencies, if this is what you want.

To find out more about VIA, go to www.copfs.gov.uk.

The Victims' Code for Scotland

The Victims' Code for Scotland provides crime victims in Scotland with a guide to their rights. It also signposts victims to sources of further help and support.

The code can be found at www.mygov.scot.

Who needs informing about the crash right now?

The police may not know everyone who should be told right away. There may be relatives or close friends who still need informing because they don't live with you or aren't with you right now. You may choose to do this yourself, or ask your police contact to do it for you. Ask your police contact if you need another copy of this book, or call Brake on 0808 8000 401.

Your contacts

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

Your police contact

Police contact name

Station phone number

Mobile number

Times they can be contacted

Email

Police officer in charge of the investigation

(Senior Investigating Officer)

Name

Phone

Email

Procurator Fiscal (the public official who investigates all sudden deaths) (see page 36)

Name

Phone

Email

Victim Information and Advice officer (VIA is part of the Crown Office and Procurator Fiscal Service. It is an information service for nearest relatives in cases which may involve criminal proceedings.) (See page 38)

Name

Phone

Email

Hospital or mortuary staff

Name

Phone

Email

Funeral organiser

Name

Phone

Email

Solicitor helping you with a compensation claim (see page 78)

Name

Phone

Email

Charities and other organisations helping you (see pages 89-98 for contact details)

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Health professionals helping you

(see the enclosed yellow booklet *Coping with grief* for information on how to obtain this help)

Organisation

Name

Phone

Email

Website.....

Organisation

Name

Phone

Email

Website.....

Organisation

Name

Phone

Email

Website.....

Faith or spiritual leader

Name

Phone

Email

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

You may also want to keep copies of any letters or documents you receive in a safe place.

A series of horizontal dotted lines for taking notes.

A series of horizontal dotted lines for taking notes.

A series of horizontal dotted lines for taking notes.

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

A series of horizontal dotted lines for writing notes.

What happens now?

What happens now?

What happens to a loved one's body

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Organ and tissue donation

It may be possible for a loved one to donate organs or tissue to help others live. Generally, to become an organ donor, a person has to be in hospital when they die. However, tissue donation is possible even if they die at the roadside. If you would like more information on donation, please speak to the person caring for your loved one's body and ask them to contact the 'specialist nurse team' who can provide donation advice. You can also call the specialist nurse team yourself on 0300 123 9209.

Under Scottish law, if your loved one had made their donation decision known (for example, by informing a relative or close friend, or by joining the NHS Organ Donor Register) and they died in circumstances where they can become a donor, the person caring for your loved one's body should make every effort to fulfil this decision. However, even if a loved one's decision is unknown, donations should be discussed with you. After a road crash, permission for donation to proceed may need to be discussed with the Procurator Fiscal, who investigates all sudden deaths in Scotland (see page 36). This permission is usually given.

Organs and tissue should be removed with great care. Following a donation, you will be able to see a loved one's body if you choose. If you have any questions, talk to medical staff or ask to speak to the specialist nurse team on 0300 123 9209.

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, it may help to ask police or medical staff to tell you about injuries to a loved one's body and what their body looks like.

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

You may choose to see a loved one's body to say goodbye. Or you may choose to remember someone as they were. The decision is yours. You can take your time to decide. If a loved one's body is in a hospital, there may be a hospital chaplain or bereavement officer 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 by video link, by photograph or through an internal glass window.

In rarer instances, a body is harder to identify due to injuries sustained. In this case, police may ask you to help identify a loved one through dental records or DNA (for example, from a hairbrush or toothbrush).

Post-mortem examination

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

A post-mortem examination is carried out on behalf of the Procurator Fiscal (see page 36). The Procurator Fiscal investigates all sudden deaths.

In nearly all cases of death on the road, the Procurator Fiscal decides that a post-mortem examination should include surgically opening and looking inside a body. The body is then closed again. This is called an invasive autopsy. Some people have objections, for faith or other reasons, to an invasive autopsy. If you have objections, or concerns about the way it will be carried out, you should talk to the Procurator Fiscal 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 on some occasions a body can be scanned instead.

Usually a post-mortem examination also includes toxicology tests. This means that the pathologist takes samples of blood and urine, and possibly other samples such as stomach contents, fluid from an eye and pieces of tissue, to find out if there are any toxic substances, such as alcohol or drugs, which may have contributed to the death.

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. If this is necessary, the Procurator Fiscal or your police contact will let you know as soon as possible.

You should be informed about whether a post-mortem examination will take place. You should be told by the Procurator Fiscal, or alternatively by your police contact or family doctor.

More information about the Procurator Fiscal is on page 36. Your police contact can tell you how to get in touch with the Procurator Fiscal if you haven't been contacted by them already.

Organ or tissue retention

Most post-mortem examinations involve taking small tissue samples, known as 'tissue blocks'. These are less than six millimetres thick and are embedded in wax or resin. From them, very small amounts of tissue, thinner than a hair, are placed on glass slides to be examined under a microscope to help confirm the cause of death. Tissue samples retained from the post-mortem examination become part of the dead person's medical record. Taking tissue samples does not disfigure a body.

Rarely, a Procurator Fiscal releases a body for burial or cremation but retains organs or tissue temporarily as part of their on-going investigation. The nearest relative will be informed. 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 until the investigation is over. If you proceed with a burial or cremation, any retained tissue or organs will be disposed of by the pathologist in a respectful way. The Procurator Fiscal (see page 36) should explain these options and discuss what you want to do. Sometimes medical personnel want to retain organs or tissue for research, education or training. They can only do this with the 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 (Scotland) Act 2006. The Procurator Fiscal or the pathologist can provide more information about the law or your case.

Delays to a burial or cremation

A burial or cremation can only take place once the Procurator Fiscal 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 your police contact or the Procurator Fiscal.

The post-mortem examination report

It is possible for you, for free, to see a copy of a loved one's post-mortem examination report. You may or may not want to see it. The Procurator Fiscal can arrange for it to be sent to your GP who can help explain it. Sometimes, you cannot see it until after an investigation has finished. A pathologist who carried out a post-mortem examination may also be able to meet with you. Usually this happens at the office of the Procurator Fiscal.

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

Return of a loved one's personal belongings

The police, hospital officials or mortuary staff may be holding personal belongings of a loved one who has died, such as a bag, mobile phone, clothes or jewellery. You can ask if they are holding any belongings, and what they are. You may decide that you want to have 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 because the clothes may carry the smell of that person. Some clothes are very badly damaged and you may want them cleaned or not returned at all.

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

Sometimes belongings are kept temporarily by the police because they are needed as evidence for a criminal investigation. Once the police investigation and any resulting criminal prosecution are finished, these belongings can be returned to you if you want them.

The police and the Crown Office and Procurator Fiscal Service have produced joint guidance on the return of property kept for use as evidence, called 'Victims Rights – Return of Property'. This guidance can be found at www.copfs.gov.uk.

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 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 leave flowers or some other token at the crash site. See page 34 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 or not a loved one was conscious or unconscious during this time.

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

If a loved one died in hospital, you can ask to talk to doctors or nurses who provided treatment, or ask your GP to find out the treatment given and explain it to you. You may also be able to obtain a copy of a medical report prepared by the hospital on treatment given. There may be a fee charged. A hospital doctor, or your GP, will be able to explain the report to you.

Why did the crash happen?

It is common to want to know straight away what happened. The police will carry out an investigation into the crash and collect evidence on behalf of the Procurator Fiscal (see page 36). If it appears that someone is to blame, criminal charges may then be brought (see page 42). You can ask your police contact questions and seek information from them at any time during their investigation.

If a solicitor is working on your behalf to find out if you can claim compensation (see page 26), they will also need information from the police (including names of people involved, witness statements, and evidence such as photographs). It is important that your solicitor requests and gets information as soon as possible.

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

You can ask your police contact or the Procurator Fiscal 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 they will tell you as much as they can.

You can read more about what information can be released and when it can be released in the document 'Access to Information Protocol – A Guide for Victims and Witnesses'. This is available at www.copfs.gov.uk.

What happens to a vehicle involved in the crash?

If a person who died was in a vehicle or on a motorbike or bicycle, that vehicle or bike, and any other vehicles involved in the crash, will be examined by the police. 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 will 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 kept 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.

The Procurator Fiscal must authorise the release of a vehicle.

You can pay for an independent examination of a vehicle if you or your solicitor (see page 26) think this is necessary. If you wish to do this, tell your police contact. A list of crash investigators is available from the website www.itai.org.

Practical issues

Practical issues

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Registering a death

It is a legal requirement to register any death that occurs in Scotland with an official called a Registrar. A death must be registered within eight days.

A death can be registered with any Registrar in any part of Scotland. Your police contact, a doctor, or funeral director can give you the details of a Registrar so that you can make an appointment. You can also find Registrars in a telephone directory, under 'Registration of Births, Deaths and Marriages'.

The Registrar can tell you what documents you need to bring with you when registering a death. Once a death is registered, the Registrar will give you the following documents, free of charge:

- A certificate of registration of death to give to any funeral director you are using so that the funeral can go ahead.
- A 'registration or notification of death' form (also known as 'the green form'), to complete and use in claiming or adjusting benefits (see page 27).
- A shortened extract of the record of the death, as written in the Register of Deaths, which does not mention details such as the cause of death.

If you wish to, you can pay for a full extract of the record of the death, as written in the Register of Deaths. You may need a full extract to do certain things, such as closing a bank account or letting an insurance company know about the death.

A booklet, *What to do after a death in Scotland*, provides more information on registering a death. It is available from Registrars or by searching for '*What to do after a death in Scotland*' at www.mygov.scot.

Information on registering a death is also available from the National Records of Scotland at www.nrscotland.gov.uk.

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 insurance company 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 a motor insurer what happened in the crash. You only need to say that the crash is being investigated by the police (see page 39).

The motor insurer may offer you a solicitor to help you find out if you have a compensation claim. It is up to you whether you consult this solicitor or a different solicitor (see below).

Whether or not a person who died was driving a vehicle, you are advised to consult a solicitor of your choice as soon as possible. It may be possible, at no cost to you, to make a significant claim for compensation from the motor insurer of a vehicle that contributed to the crash (see pages 26 and 78).

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

Telling others

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

- employers. (If you are employed you may be entitled to immediate bereavement leave or be given permission to take your holiday entitlement now. Some employers and trade unions also have benevolent funds that provide support to families of employees who have died);

- school, college or nursery. (Teachers can provide valuable support);
- life insurance and pension companies. (The sooner you inform these companies, the sooner you can go ahead with any possible claims from these plans);
- bank or building society;
- mortgage or loan provider;
- landlord;
- housing department or housing association (if a person who died was living in council or social housing);
- utility providers (for example, gas, electricity and phone) - particularly if a person who died lived alone;
- benefit providers (see page 27);
- 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.

Most 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.gov.uk and search for 'Tell us once', or speak to the Registrar.

Arranging a burial or cremation

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 26) 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 can 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 and transporting the body.

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

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

The Good Funeral Guide is a not-for-profit organisation that inspects and accredits small funeral directors aiming to offer a personal service:

- The Good Funeral Guide

T: 07557 684 515 W: www.goodfuneralguide.co.uk

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

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

Burial grounds

Your local authority or funeral director can provide you with lists of local cemeteries and church graveyards. Some burial grounds may already be full. The person in charge of the 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 (contact details above) provides a list of these burial grounds.

Ashes

If a 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. You do not have to use a coffin: the body can alternatively be wrapped in a shroud before being buried or cremated. You can buy coffins and shrouds from a funeral director, over the internet or make your own. There are rules governing the wrapping of bodies. If you are not using a funeral director, you can get advice from the Natural Death Centre.

The website www.yourfuneralchoice.com compares prices and services of funeral directors in your area.

Paying for a burial or cremation

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

- you are on a low income. (Ask your local benefits office as soon as possible whether the government can help you pay. You can also find information on www.gov.uk);
- the person who died was signed up to a scheme providing payment for funeral 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 funeral through a payment plan. (If this is the case, the payment plan 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 opposite and page 78).

Direct funerals

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

The Natural Death Centre can advise on ways to lower the cost of a burial or cremation and lists funeral directors specialising in direct funerals. Go to www.naturaldeath.org.uk.

Hiring a solicitor

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

Different solicitors specialise in different areas of law. A personal injury solicitor is the best person to advise you on whether you can claim compensation and pursue any claim for you (see page 78). Sometimes a lot of money can be claimed, so it is important to find out. You may also need advice from a solicitor specialising in wills. Depending on your circumstances, you may also need specialist advice regarding issues around an inquest, a post-mortem examination, a criminal case, or a death that happened abroad.

It is important to use solicitors experienced in the right areas of law. A solicitor who has helped you before, for example to buy a house, may not be the best solicitor for you now. See pages 78 to 79 for advice on contacting solicitors specialising in road death and personal injury claims, and below for advice on contacting a solicitor specialising in wills.

Wills

If you are the next of kin of an adult who 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. They may also be registered publicly with Registers of Scotland. You can call 0800 169 9391 to find out. 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 burial or cremation arrangements.

Wills can be complicated. Sometimes there is no will. Whether or not there is a will, a specialist solicitor will be able to give you advice. The Society of Trust and Estate Practitioners (STEP) provides details of solicitors in Scotland who specialise in wills. Go to www.step.org or phone 020 3752 3700. Alternatively, you can ask the Law Society of Scotland for details of specialist solicitors (see page 78).

If you need advice about a will but have a low income and cannot afford to pay a solicitor, your local law centre can provide a free and independent legal service. You can find details of your nearest law centre at www.govanlc.com.

Benefits

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

If a person who has died was claiming any benefits, or if you were receiving benefits for them, you need to inform the benefit provider about the death.

To find out if you can claim any benefits, contact your local benefits office or call the bereavement benefits helpline on 0345 606 0265 or go to the website www.gov.uk. You can also contact your local Citizens Advice service (see page 98) for free advice. For information on finding your local office, go to www.cas.org.uk.

The Department for Work and Pensions in Scotland produces a guide to benefits after a death called *D49S - What to do after a death in Scotland: social security supplement*. You can ask for a copy in your local benefits office.

Financial issues

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

Some bereaved people also find they are managing finances for the first time, because this was a task undertaken by a person who died.

Understanding finances that someone else previously managed can be challenging, particularly at such a difficult time.

The following organisations can give advice.

Charities offering advice:

- StepChange Debt Charity (0800 138 1111 or www.stepchange.org)
- National Debtline (0808 808 4000 or www.nationaldebtline.org)
- Citizens Advice Scotland (0808 800 9060 or www.citizensadvice.org.uk/scotland/)

Government-established advice service:

- Money Advice Service (0800 138 7777 or www.moneyadviceservice.org.uk)

If you are pursuing a claim for compensation, it is sometimes possible to obtain an early partial payment, to help with immediate financial needs. Your solicitor can advise you (see page 78).

Stopping unwanted mail

You may find it upsetting to receive direct mail, email or sales calls for someone who has died. One way to reduce the chance of this is to register, for free, with The Bereavement Register. Call 0800 082 1230 or go to www.thebereavementregister.org.uk.

You can also stop unwanted sales calls, mail and faxes by registering for free with the following:

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

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.

Social media

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

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

There are many websites that encourage people to state their views on public forums (for example, on news websites). These forums often contain a variety of views, some of which may not be sensitively worded nor fair comment. They may contain incorrect information. A driver who has caused a crash may also post things on their own social media accounts that you may find upsetting.

For your well-being, you may choose to avoid sites that could contain insensitive posts or incorrect information and only visit places on the internet where you feel safe, supported and can trust what you are reading.

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

Your case in the media

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

Different people feel differently about the media. You may feel grateful for media coverage, or dislike it, or feel disappointed that there isn't more media coverage. It is up to you whether you talk to journalists or not. You may decide to talk to journalists to help raise awareness of road safety, or to help find witnesses to the crash. You may find that you prefer to talk to some journalists but not to others. You may decide not to talk to journalists for personal reasons.

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

Ask your police contact or your solicitor (see page 26) 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 court case 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.

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 would 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 horror of road crashes. If you want to consider this, talk to your police contact. 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 get copies made for you.

Being interviewed by a journalist

Being interviewed by a journalist can be hard, particularly if they are a stranger and they are asking you to talk about how you feel. It can also 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 in advance about 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 ask if the interview could 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 or publisher. If you are complaining about a TV or radio station, address your complaint to the director. Sometimes the media offers to print or broadcast an apology. A newspaper or magazine may offer to print a letter from you.

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

- The Independent Press Standards Organisation (IPSO) regulates the Editors' Code of Practice, a set of rules that newspapers or magazines who are members of IPSO must follow. To read this code, or to complain if you think a newspaper or magazine journalist has broken this code, and to access an IPSO leaflet for bereaved people about dealing with media attention, go to www.ipso.co.uk. IPSO can also help with unwanted press attention or harassment concerns and operates an emergency 24-hour helpline you can call.
- The Ofcom code of practice governs TV and radio journalists. To read this code and make a complaint if you think a TV or radio journalist has broken this code, go to www.ofcom.org.uk.

Some people bereaved by a road crash wish to campaign publicly for road safety. Pages 89 to 91 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 someone else to talk on your behalf to your local authority about roadside memorials. The Brake helpline can do this for you. Your solicitor, police contact, or another support agency may also be able to help.

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

Website memorials

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

If the crash happened abroad

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

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

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

Support is also provided by FCO Consular staff based abroad at British embassies, High Commissions and Consulates, and in London in the Consular Directorate of the FCO.

These officials can:

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

FCO 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 26).

If someone dies abroad and you want to arrange a cremation in Scotland, your funeral director will apply for a cremation order from the Scottish Government Health Directorate. If you are not using a funeral director, contact the Scottish Government for further information at www.gov.scot or phone 0300 244 4000.

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

Investigation and criminal charges

Investigation and criminal charges

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The Procurator Fiscal

Procurators Fiscal investigate all sudden deaths. They are qualified lawyers and are employed by the Crown Office and Procurator Fiscal Service (COPFS). They are responsible for the following:

- instructing a post-mortem examination (see page 14);
- overseeing the police investigation (see page 39) and then deciding whether or not a criminal prosecution should go ahead, sometimes in partnership with senior lawyers called Crown Counsel (see page 42);
- helping decide whether a Fatal Accident Inquiry should happen (see page 73).

Once the Procurator Fiscal has considered the police report into a crash (see page 40), they may decide to interview witnesses and carry out further investigations. Once they are satisfied that the circumstances of the death have been fully investigated, they will decide the next step, which could include a criminal prosecution, or not.

Contact with the Procurator Fiscal

The Procurator Fiscal should contact you no later than 12 weeks after a death is reported to them to tell you the progress of the investigation. When the Procurator Fiscal contacts you, they should also offer you a personal meeting, which should take place within the next 14 days. If you do not want a meeting, the Procurator Fiscal will communicate with you in other ways according to your needs and wishes. After that, the Procurator Fiscal will contact you every six weeks about the progress of the investigation. If you want a further meeting, this can be arranged.

The Procurator Fiscal should also continue to liaise with you to keep you informed of any progress and to ensure your views are carefully considered when decisions are being made.

Once a criminal charge or charges have been brought against someone, or a decision has been made to bring no charges, the Procurator Fiscal should contact you again to explain the decision. For information on prosecutions, see page 42.

You should feel free to contact the Procurator Fiscal or VIA at any time to ask questions or raise concerns you may have during the investigation into the circumstances of the death. Your police contact can tell you how to contact the Procurator Fiscal if you have not heard from them already. You may wish to write their contact details on page 1 of this guide.

Victim Information and Advice (VIA)

If criminal charges are being considered by the Procurator Fiscal, and you are the nearest relative of a person who died, a Victim Information and Advice (VIA) officer will be assigned to provide you with information about what is happening.

VIA is a service provided by the Crown Office and Procurator Fiscal Service (COPFS). Your VIA officer has direct access to information about your case.

If you have been assigned a police Family Liaison Officer (see opposite page 1) you will normally be introduced to a VIA officer in a meeting. At this time, your FLO will pass responsibility to VIA for giving you information. Your FLO will then withdraw from the case.

If you do not have a FLO, you may be introduced to VIA by another police officer or the Procurator Fiscal.

Your VIA officer can:

- provide information about the criminal justice process;
- provide information about the progress of your case;
- provide help up to the end of a criminal case, including any appeals;
- help refer you, with your consent, to local and national organisations that provide counselling and support, if this is what you want;
- arrange for you to be shown round the court before a hearing.

If you are not introduced to a VIA officer, this may be because someone else (a nearest relative) is receiving help from VIA.

To find out if you are also able to receive help from VIA, you can call COPFS on 01389 739 557. If VIA cannot help you, they can refer you to other support agencies if you wish. For more information on VIA, go to www.copfs.gov.uk.

The police investigation

A death on the road is investigated by the police on behalf of the Procurator Fiscal (see page 36). The police have a duty to try to find out what happened by gathering evidence, and then submit this evidence to the Procurator Fiscal. A police investigation can take several months.

If the police decide to stop an investigation and you have not been told why, you can ask your police contact or make a formal request for this information to Police Scotland. There is information on how to do this on www.copfs.gov.uk.

Giving a statement

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

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 site of the crash and examine vehicles involved (see page 19). They may examine belongings of people in the crash, such as mobile phones.

Medical evidence

Medical evidence may be provided by personnel who tended to a loved one at the scene of the crash or in hospital and by the pathologist who did the post-mortem examination. Medical evidence can include alcohol and drug tests on the drivers who were involved.

If the crash involved someone driving for work

If the crash involved someone driving for work, an organisation called the Health and Safety Executive (HSE) may get involved in the investigation. HSE inspectors aim to identify any failure by an employer to ensure 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/scotland

Standards for police investigations into fatal road crashes are explained in a police manual called the Road Death Investigation Manual (see opposite page 1).

The police report

If the police investigation finds any evidence that suggests a crime may have been committed, this evidence is compiled into a report that is sent to the Procurator Fiscal.

You are not automatically entitled to see this report, but you or a solicitor you are using (see page 26) may be able to get a copy of it or discuss its contents, often after any criminal proceedings are finished. If you wish to get a copy, or discuss its contents, ask the Procurator Fiscal.

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.

If you are pursuing a claim for compensation (see page 78), your solicitor will usually obtain an 'abstract' report on your behalf as soon as possible. This provides only brief details of the crash and who was involved. Your solicitor may ask for an interview with police officers involved in the investigation. Your solicitor may also request extra evidence from the police report. Your solicitor may only be allowed to interview the police and obtain this extra evidence after any criminal proceedings are finished.

Precognition interviews

After the Procurator Fiscal receives the police report, they decide whether to 'precognosce' (interview) any witnesses as part of the investigation into the death. These interviews help them decide if criminal proceedings should be brought.

If you have evidence relevant to the investigation (for example, if you witnessed the crash or events leading up to it, or after it), you may be asked to attend a precognition interview with the Procurator Fiscal or a lawyer acting on behalf of someone involved in the crash. You should co-operate with any request to attend a precognition. Your contact details remain confidential. They cannot be given to a person who is accused of a crime.

It may be possible for a relative or friend to attend a precognition with you to offer support. You are not allowed to be accompanied by another witness and your supporter cannot participate in the interview. You can claim reasonable expenses for attending a precognition.

The decision to prosecute or not

The purpose of a criminal prosecution is to find out if a person, or in some cases, a company, has broken the law and to punish an offender or offenders. Whether or not a criminal prosecution happens depends on the circumstances of the crash and whether there is enough evidence to support a criminal charge. Sometimes several charges are brought. Sometimes no charges are brought.

The Procurator Fiscal will consider the law, the evidence and whether it is in the public interest for charges to be brought. The crime has to be recognised in Scottish law and there also has to be enough reliable and credible evidence that the crime was committed by someone.

If the Procurator Fiscal thinks a serious charge should be brought against someone, they send a report explaining their recommendation to senior lawyers called Crown Counsel. Crown Counsel will then tell the Procurator Fiscal which charge or charges the police should bring.

Some charges must be brought within certain time limits. The police or the Procurator Fiscal can advise you.

Victims' Right To Review

If a decision is made by the Procurator Fiscal not to bring charges against someone, you may have the right to request a review of that decision, known as a Victim Right to Review. If you wish to request this, talk to your local Procurator Fiscal's office to find out if it is possible and the time frame in which you must do it.

Victim statements

If a case is being heard in the High Court or before a sheriff and jury (see page 63), up to four family members may be asked whether or not they want to make a victim statement. This gives them an opportunity, before sentence is imposed, to explain in writing how the crime has affected their lives, physically, emotionally and financially.

If you are eligible to make a victim statement, the Procurator Fiscal or VIA should give you an information pack that explains what you can include and who can help you prepare your statement. If you are not given this pack you can ask the Procurator Fiscal or VIA for more information.

If you make a victim statement and an accused person is found guilty by trial or pleads guilty, your victim statement will become part of the case papers and may be read out in court. You will not have to read out your victim statement in court.

You do not have to make a victim statement. If you choose not to, information about the impact of the crime can still be explained in court.

More information, including details of who can make a victim statement, is available in a booklet, *Making a victim statement*, available from the Scottish Government website: go to www.mygov.scot and search for 'make a victim statement'.

The possibility of bail

Someone who is being charged with an offence is often called 'the accused'. An accused person will be issued with a document, sometimes called a complaint, petition or indictment, that tells them to appear in court to answer the charge. Before their court appearance, an accused person may be remanded in custody (imprisoned) or granted bail (allowed to remain free before their case is heard).

The accused will be granted bail unless the court has good reason to believe that they:

- may not attend a court appearance;
- may commit another offence;
- may interfere with witnesses;
- may obstruct the course of justice, for example by running away.

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. A court may require an accused person to refrain from driving as a condition of bail, but only if it considers that it is necessary to prevent the accused person from committing further offences. Otherwise, an accused person who is on bail and who possesses a valid driving licence will be allowed to continue driving while awaiting trial. It may or may not be possible to disqualify an accused person later if they are convicted 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 the police, VIA or the Procurator Fiscal.

VIA should inform the nearest relative of any bail decision. If the accused is remanded in custody their court hearing must start within certain time limits. You can get more details from the Procurator Fiscal.

Changes to charges

Sometimes, if a serious charge is being brought by the Procurator Fiscal, the lawyers representing the accused ask the Procurator Fiscal for the charge to be reduced to a less serious charge on the basis of the evidence of the case. This is called 'plea negotiation' and usually happens before a case goes to trial.

The Procurator Fiscal may decide to continue prosecuting the accused for the serious charge, or may reduce the charge. Their decision is based on the law, the evidence and what is in the public interest.

Criminal charges that may follow a death on the road

The following pages explain some of the criminal charges that sometimes follow a death on the road and maximum penalties. 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 Procurator Fiscal 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 safety-critical components) would be dangerous.

This charge is usually heard in the High Court but in some circumstances may be heard in a Sheriff Court with a jury. The maximum prison sentence is 14 years at the High Court or five years at a Sheriff Court. Both courts may impose an unlimited fine. Anyone convicted must be disqualified from driving for a minimum period of two years. The offender must take an extended driving test before they can regain their 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 would be expected of a careful and competent driver.

This charge can be heard before a jury in the High Court or a Sheriff Court. In those circumstances, the maximum penalty is a prison sentence of five years or an unlimited fine, or both. The charge can also be heard by a sheriff, without a jury, in a Sheriff Court. Here, the maximum penalty is a prison sentence of 12 months or a fine of £10,000 or both. The driver must be disqualified for a minimum period of one year and their licence must be endorsed with three to 11 penalty points. The court has discretion to order the offender to re-sit their driving test before regaining their licence.

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

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

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

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

This charge is usually heard in the High Court but in some circumstances may be heard in a Sheriff Court. The maximum prison sentence is 14 years at the High Court or five years at a Sheriff Court. Both courts may impose an unlimited fine instead of, or in addition to, a prison sentence. Anyone convicted must be disqualified from driving for a minimum period of two years and their licence endorsed with three to 11 penalty points. The offender must pass an extended driving test to regain their licence.

Causing death by driving: unlicensed or uninsured drivers

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

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

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

An offence under section 3ZB can be heard before a jury in the High Court or the Sheriff Court. In those circumstances, the maximum penalty is a prison sentence of two years or an unlimited fine or both. The charge can also be heard by a sheriff, without a jury, in a Sheriff Court. Here, the maximum penalty is a prison sentence of 12 months or a fine of £10,000 or both. The driver must be disqualified for a minimum period of one year.

Causing death by driving: disqualified drivers

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

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

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

An offence under section 3ZC can only be heard before a jury in the High Court or Sheriff Court. The maximum penalty is 10 years' imprisonment, an unlimited fine, or both. The driver must be disqualified for a minimum period of one year.

Murder and culpable homicide charges

Common Law

It is possible to charge someone with murder or culpable homicide if their driving has killed. Murder is committed when there was intention to kill a victim or the accused's conduct was 'wickedly reckless'. A charge of murder may, for example, be brought if someone used a vehicle as a weapon with an intent to kill. Culpable homicide is committed when the accused caused loss of life through wrongful conduct, but there was no intention to kill nor 'wicked recklessness'.

Murder and culpable homicide charges are heard in a High Court. Murder carries a mandatory sentence of life imprisonment.

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 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 charge is heard in the High 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).

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 47), or corporate manslaughter and corporate homicide (see page 52).

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 (that restrict speed on commercial vehicles).

Breaches of Construction and Use Regulations are heard in either a Justice of the Peace Court or Sheriff Court. There are a range of maximum fines, the most severe of which is £10,000 in the Sheriff Court and £2,500 in the Justice of the Peace Court (except if a Stipendiary Magistrate is sitting when the maximum is £10,000).

If the vehicle was a lorry, bus or coach, then the person in charge of the company that ran the vehicle may be stripped of their licence to operate such vehicles. The official who decides whether or not to do this is called the traffic commissioner (see page 94). It may also be possible to disqualify a company boss from running any company.

Charges that do not mention death or injury

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

- **Dangerous driving** *Section 2 of the Road Traffic Act 1988 (as amended by the Road Traffic Act 1991, section 1); and*
- **Careless 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 that this dangerous or careless driving caused the death. In these cases it may only be possible 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'.

The charge of dangerous driving can be heard before a jury, usually in a Sheriff Court. In those circumstances, the maximum penalty is two years' imprisonment or an unlimited fine or both. The charge can also be heard by a sheriff without a jury in a Sheriff Court. In this case, the maximum penalty is 12 months' imprisonment or a £10,000 fine or both. 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's licence must be endorsed with three to 11 penalty points. The driver must pass an extended driving test before they can regain a full driving licence.

The charge of careless driving is heard in a Sheriff Court without a jury. The maximum penalty is a fine of £5,000. The driver can be disqualified from driving. Their licence must be endorsed with three to nine penalty points.

Failing to stop or report an accident (often called 'hit and run')

Section 170(4) and Section 170(7) of the Road Traffic Act 1988

A driver involved in a crash must stop and provide their name and address, and the name and address of the owner of the vehicle and the identifying marks of the vehicle. Failure to do so is an offence. It is an aggravation of the offence if the driver did not stop because they thought they were over the legal alcohol limit.

If for any reason the driver does not give this information at the time of the crash, they must report the crash to a police officer or at a police station within 24 hours. Failure to report a crash is also an offence.

Offences under this section are usually heard in a Sheriff Court. The maximum sentence for failing to stop and give details is 12 months' imprisonment or a £5,000 fine or both. The driver's licence must be endorsed with five to 10 penalty points and the court may disqualify them.

The penalty for failing to report a crash or provide details of insurance is a £1,000 fine.

Taking and driving away (often called 'joy riding' in the media)

Section 178 of the Road Traffic Act 1988

The law states that: 'A person who in Scotland takes and drives away a motor vehicle without having either the consent of the owner of the vehicle or other lawful authority, or knowing that a motor vehicle has been so taken, drives it or allows himself to be carried in or on it without such consent or authority, is guilty of an offence.'

This charge can be heard before the sheriff or before a jury in a Sheriff Court or the High Court. The maximum penalty is a prison sentence of 12 months or a £10,000 fine before the sheriff or 12 months and an unlimited fine, or both, on indictment.

Driving otherwise than in accordance with a licence

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

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

It is also an offence to cause or permit another person to drive if they do not hold a valid driving licence.

The maximum sentence is a £1,000 fine. In some circumstances, the driver's licence may be endorsed with three to six penalty points, or the court may disqualify them.

Driving while disqualified

Section 103(1) of the Road Traffic Act 1988

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

The charge can be heard before a jury in the High Court or Sheriff Court. In those circumstances, the driver can be sentenced to 12 months' imprisonment, or an unlimited fine, or both. The charge can also be heard by a sheriff, without a jury, in a Sheriff Court. Here, the maximum penalty is 12 months' imprisonment, or a £10,000 fine, or both.

Driving without insurance

Section 143(1)(a) of the Road Traffic Act 1988

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

The maximum sentence is a £5,000 fine. The driver's licence must be endorsed with six to eight penalty points and the court may disqualify them.

Bringing a private prosecution

In exceptional circumstances, it may be possible for a member of the public, rather than the Procurator Fiscal, to prosecute another person for a criminal offence. This is called a private prosecution and very rarely happens. The process can be very costly and legal aid may not be granted to cover the cost. There must be sufficient evidence in law that a crime has been committed. The consent of the Lord Advocate (see page 74) is also required before a private prosecution can take place.

Court cases

Court cases

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

The Procurator Fiscal or Victim Information and Advice should inform the nearest relative of the dates of any court hearings in writing. If you don't hear anything and you want to know if a court hearing is happening soon, talk to your police or VIA contact.

In certain circumstances, you may also have the right to request information about the progress of the case. Guidance on what information can be obtained, who can make a request, and how to make a request, can be found in the document *Access to Information Protocol - A Guide for Victims and Witnesses*, available at www.copfs.gov.uk.

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.

You can also access information and support from the two services listed below.

Victim Information and Advice (see page 38) can help you understand procedures in court and what happens in your case. An officer from VIA can meet you when you attend court. They won't sit in court with you, but the Witness Service (see below) can provide support throughout a trial. VIA will aim to be present in court for any plea or verdict, so they can explain it to you afterwards.

Victim Support Scotland is a charity, supported by The Scottish Government, providing emotional and practical advice and support to victims and witnesses of crime. This help is free and confidential. Victim Support Scotland provides the Witness Service, available in every High Court and Sheriff Court, and also to children and vulnerable witnesses in the Justice of the Peace Court. Staff and trained volunteers support you through the process of attending court and, if you are a witness, giving evidence.

They are also able to arrange an accompanied visit to the court before the hearing, so you can familiarise yourself with a court room and court facilities. Many people find this helpful.

The police or your Victim Information and Advice officer will be able to put you in touch with Victim Support's Witness Service. Alternatively, call the Victim Support Scotland Witness Service helpline on 0345 603 9213.

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.

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

Where you can sit in the courtroom

In the courtroom, you and anyone supporting you, as well as friends of the accused and any journalists, can sit in the public gallery. (If you are a witness, you will not be able to go in until you have given evidence.) VIA or the Witness Service may be able to arrange for you to sit in a different part of the gallery to any friends of the accused.

In court, the person being prosecuted is referred to as 'the accused'. The more formal term 'the panel' is also occasionally used.

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

Evidence is presented in court for the benefit of the justice of the peace, sheriff, judge and/or jury. 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

When the court has breaks, for example at lunchtime, VIA will aim to answer any of your questions about what is happening in court.

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. VIA will aim to keep you up to date with what is happening.

If you are asked to be a witness in court

In certain cases a person who is bereaved by a road crash may be 'cited' as a witness to give evidence in court (asked to be a witness in court). If you are, the Procurator Fiscal will give you a letter and booklet called *Being a witness*. You may be eligible for special measures to help you give evidence (see next page). You can download the *Being a witness* booklet from www.copfs.gov.uk.

Special measures for witnesses

Being a witness in court is a new experience for most people. As a witness, you may feel vulnerable for reasons to do with the circumstances of the case, the evidence you have to give, or your health or age. You may feel so distressed at the thought of giving evidence that you feel vulnerable.

You can discuss any concerns you have with the person who cited you or your VIA officer. They can give you information about the court process and support arrangements to help you be better prepared for giving evidence. They can also discuss your circumstances and whether to make an application to the court for 'special measures' to help you give evidence.

Special measures generally apply to:

- all witnesses under the age of 18;
- adult witnesses where there is a significant risk that the quality of their evidence will be affected (diminished) because of mental disorder, fear or distress in connection with giving evidence, or where there is significant risk of harm to a person as a result of them giving evidence.

The standard special measures (which are automatically available for those under 18, and at the discretion of the court for others) are:

- screens, so you cannot see the accused, and they cannot see you directly (although they will be able to see you on a monitor);
- using a live television link so you can give evidence away from the courtroom;
- having a supporter to keep you company before you give evidence and provide a reassuring presence in the courtroom while you give evidence. (They can't discuss your evidence with you. If they are also a witness in the case, they can't support you until they have given evidence).

Further special measures (allowed at the discretion of the court) are:

- using a statement you have already given as your main evidence. This is a video or audio interview between you and the police, or a written statement you gave before the trial. It will be played or read out in court and you will be asked questions about what you said;

- having your evidence taken by a ‘commissioner’ (a judge or sheriff) appointed by the court. This means giving your evidence in the same way as you would in a trial, but at a different time or place. The evidence you give will be recorded and played at the trial;
- closing the court while you are giving evidence, which means that only certain officials, and those permitted by the court, are allowed to be present.

These special measures may be used on their own or in combination.

The accused can lodge objections to the use of special measures, which the court will have to take into account when considering an application. However, the accused cannot object to the standard special measures that a child witness is automatically entitled to use.

The person who cited you as a witness or VIA will be able to tell you how special measures might apply to you. They can let you have a booklet that explains these measures in more detail. They can also show you a CD-ROM or DVD about going to court, who you are likely to meet there and what they do, and how the special measures work.

Further information on special measures can be found on the Scottish Government website www.mygov.scot.

If you are required to give evidence in court, advice and support is available from VIA and the Witness Service (see page 58).

Preliminary hearings and intermediate diets

A prosecution may start with one or more short hearings, which don't usually include witnesses being called, before the main trial goes ahead. 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. These hearings aim to help a trial proceed smoothly without unnecessary delays. These hearings are called a preliminary hearing (in the High Court) or a first diet (in a Sheriff Court under solemn procedure) or an intermediate diet (in a Sheriff or Justice of the Peace Court under summary procedure).

What happens in a Sheriff Court or the High Court?

Serious criminal charges following a death on the road are heard in a Sheriff Court or the High Court. The most serious charges are heard in the High Court. If an accused person pleads guilty to a charge, the sheriff (in a Sheriff Court) or the judge (in the High Court) passes sentence, or chooses to sentence at a later date.

If an accused person pleads not guilty, then the case will go to trial. High Court trials are heard in front of a jury of 15 members of the public. Sheriff Court trials are sometimes heard in front of a jury.

If a trial is being held in front of a jury (called solemn procedure), and if it takes more than a day, then the trial is likely to occur on consecutive days. If a trial is being heard without a jury (called summary procedure and often the case in a Sheriff Court) and it takes more than a day, it may be heard on several days spaced over several weeks.

The prosecutor presents the evidence against the accused person. In the Sheriff Court, the Procurator Fiscal is the prosecutor. In the High Court, an official known as the Advocate Depute is the prosecutor.

A defence lawyer presents the evidence for the accused person. Both sides may call witnesses to give evidence. Witnesses may include eyewitnesses and expert witnesses such as police crash investigators. Both sides may present physical evidence, such as photographs or

diagrams. The Procurator Fiscal, the defence lawyer, and the sheriff or judge can all question witnesses. The accused person can choose not to give evidence.

After the evidence has been presented, the Procurator Fiscal and the defence lawyer give speeches to sum up the evidence. These speeches are intended to help the jury (or the sheriff if there isn't a jury) decide whether the accused is guilty. If there is a jury, the sheriff or judge will also give a speech on the law to help the jury to reach a decision. For a guilty verdict, there must be at least eight votes for guilty.

To get a guilty verdict, it is up to the Procurator Fiscal to prove the case 'beyond reasonable doubt'.

After the verdict has been decided, the sheriff or judge then decides the sentence, or chooses to sentence at a later date (see page 66). Sometimes a sheriff believes the accused should receive a higher sentence than they are able to impose in a Sheriff Court, and refers the accused to the High Court for sentencing.

What happens in a Justice of the Peace Court?

Less serious criminal charges are heard in Justice of the Peace Courts. In many instances Justice of the Peace Courts are held in buildings that also house a Sheriff Court.

Charges in Justice of the Peace Courts are heard by a Justice of the Peace (a trained member of the public) who sits with a legally-qualified clerk.

Procedures in a Justice of the Peace Court are similar to those in a Sheriff Court (see page 63). There is no jury.

If an accused person pleads guilty, the Justice of the Peace decides the sentence. If an accused person pleads not guilty, the case goes to trial and the verdict and sentence (if the verdict is guilty) is decided by the Justice of the Peace.

Justices of the Peace have different sentencing powers to judges and sheriffs. Justices of the Peace can impose fines of up to £2,500 or prison sentences of up to 60 days.

Victim Information and Advice (see page 38) will be able to explain to you what is likely to happen at a planned hearing, how a case is progressing and the reasons for any delays.

If the accused is under the age of 16

If a child under the age of 16, or aged 16 or 17 and under the supervision of the Children's Hearings System, is charged with certain offences they may be considered for prosecution by the Procurator Fiscal. Alternatively, their case may be referred to a Children's Reporter who works for an organisation called the Scottish Children's Reporter Administration.

When deciding what to do about a child or young person, the Reporter has three options. They can:

- arrange a Children's Hearing, heard in front of three trained volunteers from the community;
- refer the case to the local authority to work with the young person to deal with the offending behaviour;
- decide not to arrange a Children's Hearing nor refer the case.

Go to www.scra.gov.uk for more information for victims of youth crime.

The verdict

At trial there are three verdicts open to the jury: guilty; not guilty; and not proven. If the verdict is not guilty or not proven, the accused goes free and cannot usually be tried on the same charge again. However, in certain very serious cases, if important new evidence emerges, it may be possible for a retrial to occur (under the Double Jeopardy (Scotland) Act 2011).

Sometimes an accused person changes their plea to guilty during a trial. Sometimes they plead guilty to a lesser charge.

Sometimes an accused person who is tried for a serious charge is found not guilty of that charge but guilty of a lesser charge.

Pleas in mitigation and background reports

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

The judge may also ask for background information about the offender. This is required if the offender hasn't been to prison before, or is under the age of 21 (this age requirement does not apply for the offence of murder), or is serving a community sentence. The judge may delay sentencing to a later date so this background information can be provided and the judge can give further thought to the sentence.

Sentencing

Any sentence imposed is decided by the judge, sheriff or Justice of the Peace.

Before an offender is sentenced, their lawyer will state any mitigating factors they think might reduce the sentence, such as an offender's remorse.

Background information about the offender may also be sought by the court, such as any medical issues or whether the offender already has a criminal record. Sentencing may be delayed while this information is obtained.

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

- 'pleas in mitigation' or the findings of background reports (see above);

- victim statements (see page 43)
- whether the offender pleaded guilty or not. If the offender pleaded guilty, then the sentence can be discounted (reduced). The discount depends on when the offender pleaded guilty, but can be up to a third of the sentence that would have been imposed if the case had gone to trial. A discount can also apply to driving disqualifications and the imposition of penalty points.
- the level of sentences in similar cases in the past. This is called 'case law';
- guidelines on sentencing. The Scottish Sentencing Council produces guidance on sentencing that can be found at www.scottishsentencingcouncil.org.uk;
- the powers of the court. Different courts can sentence up to different levels. Government can change these levels over time. To find out the maximum sentence that a court can impose, talk to your VIA officer;
- whether a warning, community sentence (see below) or fine are appropriate rather than prison.

In exceptional circumstances, when a person is guilty of a charge, the judge can decide to discharge the person. This means no penalty is imposed on more serious cases (indictment) and no conviction is recorded in less serious (summary) cases. This is called an 'absolute discharge'.

A court will rarely impose the maximum penalty and sometimes imposes a much lower penalty. If you don't understand the basis for a sentencing decision, talk to your VIA officer or the Procurator Fiscal who can help explain what has happened.

Community sentences

Sometimes an offender is given a community sentence rather than a prison sentence, meaning they have to serve their sentence in their community.

An offender may be given a Community Payback Order which could require them to do one or more different things including:

- up to 300 hours of unpaid work in the community;

- attending a programme to address the underlying causes of their offending;
- paying money (in compensation) to those affected by their offence;
- following directions from the court to do, or refrain from doing, specified things;
- being subject to supervision by a criminal justice social worker.

If the offender has mental health, drug or alcohol abuse problems and was sentenced in a Sheriff Court or High Court, there can also be a requirement that they receive supervised treatment and their progress over time can be reviewed.

An offender may also be given a Restriction of Liberty Order which means they are electronically tagged and required to remain in a named place for a number of hours a day for up to a year. An offender can also be restricted from being in a particular place or places as part of a Restriction of Liberty Order.

More information about community sentences is available on www.mygov.scot.

Further information on sentences is available from www.scottishsentencingcouncil.org.uk.

Appeals by an offender

Following a criminal case an offender may appeal against their conviction or sentence or both. If the offender pleaded guilty, they can only appeal against their sentence.

If the offender is in prison when they appeal, they can also apply for bail and in some cases may be released while waiting for the appeal. This is called 'interim liberation'.

Almost all appeals from summary proceedings in a Sheriff Court or Justice of the Peace Court are heard by judges in the Sheriff Appeal Court in Edinburgh. Appeals from solemn proceedings are heard by judges in the High Court in Edinburgh (known as the Court of Criminal Appeal).

Two judges sit to hear an appeal against sentence. Three judges sit to hear an appeal against conviction. If the offender is appealing against their sentence alone, the court may confirm the original sentence or impose a different sentence (which may be higher or lower).

If the offender is disputing their guilt, the court may consider points of law that the offender thinks were not properly considered at the original trial. The court decides whether to uphold or quash the conviction. If the court upholds the conviction, the sentence is not revisited. If the appeal is allowed, the court may acquit the offender, convict them of a lesser charge, or order a retrial.

Appeals by the prosecution

The prosecution can appeal against a sentence, but only where it considers the sentence to be 'unduly lenient'. If you are unhappy with a sentence passed, tell the Procurator Fiscal as soon as possible. They can tell you whether they plan to lodge an appeal.

The prosecution cannot usually appeal against a 'not guilty' or 'not proven' verdict.

When can appeals be lodged?

In solemn procedure cases, an accused is required by law to lodge a notice of intention to appeal within two weeks. In summary procedure cases, appeals must be lodged within one week. The High Court has the power to extend these periods.

Appeals against a sentence by the prosecution must be lodged within 28 days.

If you are the nearest relative, Victim Information and Advice (see page 38) should tell you if there is an appeal. They can tell you if someone is granted bail before an appeal, the date of an appeal, its progress and its outcome. You can attend all appeals and take friends, family or support workers.

Will a prisoner serve their whole sentence?

Prisoners are usually released from prison before the end of their sentence. This is called 'automatic early release'. The rest of their sentence is served 'on licence'. An offender on licence is supervised in the community by the probation service.

Some offenders are released earlier under a special scheme called the Home Detention Curfew Scheme. This scheme requires an offender to remain at a particular address during particular hours and wear an electronic tag to monitor their movements.

Some offenders may be released 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 the community. Prisoners must return to prison at the end of a temporary licence.

For prisoners sentenced to under two years in prison before 1 February 2016, the prisoner will be released after serving two thirds of their sentence, if they are still in prison at that point.

For prisoners sentenced to under two years in prison on or after 1 February 2016, the prisoner will be released when they have six months left on their sentence, if they are still in prison at that point.

If a prisoner is sentenced to between two and four years in prison, they will be released after serving half their sentence.

If a prisoner is sentenced to four or more years in prison, they may be released after serving half their sentence. This is called 'discretionary early release'. The Parole Board for Scotland decides whether or not to release a prisoner at this stage, and any conditions attached to their release. If the Parole Board for Scotland decides a prisoner should stay imprisoned, the prisoner can have early release considered again at a later date.

To release a prisoner before their full term, the Parole Board must be satisfied that the prisoner no longer presents an unacceptable risk to public safety. It considers factors including:

- nature and circumstances of the offence;
- conduct while imprisoned;
- likelihood of committing an offence if released; and
- what the prisoner intends to do when released.

Offenders who are released on licence are required to comply with certain rules. These may include living at a certain address, a curfew, a requirement not to make contact with you, and compulsory meetings with the probation service. If an offender is released and they break a condition of their release (for example, if they commit another driving offence), they may have to go back to prison. The court can also impose an additional punishment on the offender when sentencing them for the new offence committed while on early release.

Will an offender serve their whole driving disqualification?

Under certain circumstances, an offender who has been disqualified from driving can apply to the court that imposed the disqualification to have the remaining period of disqualification removed. This process is normally called a 'removal of disqualification' application. An offender can apply to the court for a removal of disqualification after:

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

The court will take into account the offender's reasons for the application, and consider information from the police about the offender's behaviour since the disqualification was imposed. If the court refuses the application, the offender can make further applications three months later.

For more information about the Parole Board for Scotland, go to www.scottishparoleboard.gov.uk.

The Victim Notification Scheme

Up to four close relatives of a person who died can choose whether or not they want to register with the Victim Notification Scheme. This scheme has two parts and you can choose to register for either or both parts.

Part one entitles you to information about:

- when the prisoner is to be released;
- the date of their death if they die before being released;
- the date of any transfer to a place outside Scotland;
- their eligibility for temporary release (for example, for training programmes or home leave);
- the escape or abscond of the prisoner;
- their return to prison under certain circumstances.

Part two entitles you to put in writing your thoughts to the Parole Board for Scotland if the prisoner is being considered for release on parole; or to the Scottish Prison Service if the prisoner is being considered for release on Home Detention Curfew (sometimes known as tagging) or temporary release. Your thoughts should be taken into account when decisions are being made regarding any conditions imposed on the prisoner's release (for example, if the prisoner must not contact you). You should be informed of any conditions that affect you. If the prisoner is serving a life sentence and being considered for release, there is also the opportunity to make your thoughts known in a meeting with the Parole Board for Scotland.

If you are eligible for the scheme the Crown Office should get in touch with you to ask if you want to register for it. You can choose to opt in, or out, of this scheme at any time prior to the prisoner being due for release.

If the offender has been sentenced to less than 18 months in prison, you are only entitled to receive information about the release or escape of the offender. You can write to the Scottish Prison Service and ask them to provide you with this information - see www.sps.gov.uk for details.

You can find out more about the Victim Notification Scheme from the Scottish Prison Service on 0131 244 8745 or at www.sps.gov.uk. There is a leaflet about the scheme on the website www.mygov.scot

Fatal Accident Inquiries (FAI)

A Fatal Accident Inquiry (FAI) is a public hearing in front of a sheriff, usually at the Sheriff Court nearest to where the death happened.

Will an FAI happen in my case?

An FAI can happen following a road death, but only in certain cases.

The purpose of an FAI is to establish the circumstances of a death, and consider what steps might be taken to prevent other deaths in similar circumstances.

An FAI will be held into all deaths resulting from 'accidents in the course of employment or occupation'. An FAI may also be held 'where a death was sudden, suspicious or occurred in circumstances that give rise to serious public concern and where it appears to the Lord Advocate to be in the public interest to hold an inquiry into the circumstances'. This is called a 'discretionary' FAI.

If a death on the road raises particular concerns about public safety, for example, if there is concern that a procedure or a system has contributed to a death, an FAI may be held. An FAI may be held, for example, if an employer told a driver to drive dangerously, or didn't have systems in place to stop a driver driving dangerously, or if a poor road layout or road signage contributed to a crash.

Unlike a criminal trial or a civil case, an FAI's primary purpose is to determine what caused a death, and not to apportion blame, punish, or seek compensation.

If there is a criminal trial, and it is deemed that all the necessary questions are answered by that trial, it may be decided that an FAI is unnecessary.

Who decides if an FAI should be held?

If the Procurator Fiscal thinks there should be an FAI, they should have a meeting with the nearest relative. If you are invited to a meeting, you may wish to consult a solicitor (see below) to help you plan what you want to say. The Procurator Fiscal then writes a report that includes your views on the holding of an FAI.

This report is then sent to senior lawyers called Crown Counsel. Crown Counsel then decide if there should be an FAI or not. The final decision then lies with the Lord Advocate. The Lord Advocate is the Government Minister responsible for criminal prosecutions in Scotland.

The Procurator Fiscal is required to tell the next of kin or nearest relative if an FAI is going to happen or not and the reasons why. The Procurator Fiscal should keep the next of kin or nearest relative informed about any FAI.

What happens at an FAI?

Police, expert witnesses and eye witnesses may be requested to give evidence to an FAI. The next of kin is entitled to question witnesses on matters connected with the death. Other relatives or interested parties can, with the permission of the sheriff, also ask questions or be represented.

Being represented at an FAI

If you are pursuing a claim for money (see page 78) and there is an FAI, the solicitor handling your claim will probably wish to attend the FAI and ask questions. They can ask the court to consider hearing evidence from particular people.

If you are given the opportunity to ask questions at an FAI, you may wish to do it yourself or ask your solicitor to do it for you. If you do not have a solicitor, you can hire a solicitor who specialises in FAIs. Call the Law Society of Scotland on 0131 226 7411. Legal aid may be available to fund the cost of a solicitor at an FAI.

The FAI determination

At the end of an FAI the sheriff delivers a decision called a determination. The determination can state:

- where and when the death and crash took place;
- the cause of the death and crash;
- the reasonable precautions that could have prevented the death or crash;
- any defects in any system of working that contributed to the death or crash;
- any other facts relevant to the death or crash.

If you wanted an FAI but one isn't happening, you are entitled to contact your MP, MSP or the Lord Advocate. See pages 74 and 96.

Victim Information and Advice (VIA) can help explain what is happening during an FAI. See page 38 for information about VIA.

Challenging an FAI determination

In certain cases, bereaved people have challenged FAI determinations through a process called judicial review. If you want to find out if this might be possible, you will need to consult a solicitor specialising in judicial reviews.

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 have your voice heard.

For information on making a comment or complaint about the police, go to www.pirc.scotland.gov.uk or call 0808 178 5577.

For information on making a comment or complaint about the Procurator Fiscal or a criminal prosecution go to www.copfs.gov.uk and click on 'comments and complaints' or call 01389 739 557.

For information on making a comment or complaint about the Scottish Courts and Tribunals Service, go to www.scotcourts.gov.uk.

The Standards of Service for Victims and Witnesses sets out the standards you should expect from the Criminal Justice System with regard to accessing information, receiving support, and participation in proceedings. You can download these standards from www.mygov.scot, or get a copy from your police or VIA contact, the Procurator Fiscal or your local court.

Further information on the standards of service you can expect can be found at www.copfs.gov.uk.

As a victim or witness of crime, you have certain rights. The Victims' Code for Scotland sets out these rights and who to contact for help and advice.

You can download this document from www.mygov.scot or get a copy from your police or VIA contact or from the Procurator Fiscal. You can phone 0131 244 4227 to request it in another language.

Campaigning for change

If you think improvements can be made to the criminal justice system regarding road death cases, you may wish to join an organisation which campaigns on this and other road safety topics (see pages 89-91).

Can I claim compensation?

Can I claim compensation?

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Claiming money for your loss

Many people bereaved by a road crash can claim money from the insurance company of a driver whose actions contributed to the crash. Sometimes very significant amounts can be claimed, although this isn't always possible.

The only way to find out if you should make a claim, and how much that claim might be worth, is to consult a personal injury solicitor as soon as possible. You shouldn't have to pay a solicitor to meet with them and discuss your case and they may be able to visit you at your home. You can check these things before you arrange a meeting. In many cases, you will also not have to pay for the solicitor's work if they take on your case.

It is the job of your solicitor to professionally pursue a claim that has a good chance of success and work to ensure that you are awarded as much as possible.

Finding a personal injury solicitor

Choose a solicitor who is an expert and experienced in personal injury claims on behalf of people bereaved in road crashes (see page 26).

- The Law Society of Scotland provides lists of all lawyers in Scotland. Some specialise in claiming compensation. Log on to www.laws Scot.org.uk and use the search facility to look for solicitors specialising in personal injury, or call 0131 226 7411
- The Motor Accident Solicitors Society (MASS) provides lists of solicitors specialising in fatal and injury motor claims across the UK, including in Scotland. Log on to www.mass.org.uk or phone 0117 925 9604
- The Association of Personal Injury Lawyers (APIL) provides lists of solicitors specialising in personal injury claims of all types, including in Scotland. Log on to www.apil.org.uk and use the search facility to look for solicitors specialising in road traffic claims or phone 0115 958 0585

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

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

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

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

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

Some people find it difficult to think about financial issues at this time. However, a successful claim for money may help you in many ways.

Can I definitely make a claim?

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. If the crash was caused by a deliberate act, the award may be paid by another body called the Criminal Injuries Compensation Authority. In all cases, 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 27). 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.

To succeed, a fatal motor claim requires someone to be found, 'on the balance of probabilities', to be 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). An award is made after a process of negotiation or a court ruling. Amounts awarded vary from case to case. In criminal law, by comparison, the guilt of an accused person has to be 'beyond reasonable doubt' to secure a conviction, which requires a higher level of proof.

Do not delay

Do not delay consulting solicitors. If you have a good chance of compensation, the solicitor you choose will want to work on your case as soon as possible. It can take time to compile evidence to support your case, and the earlier you hire a solicitor, the sooner compensation can be awarded. Most claims for money must be submitted within three years, although sometimes claims must be made within two years.

Who pays an award?

Awards are usually paid by a liable person's motor insurance company, 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. You will still need a solicitor.

Types of fatal motor claim

Many people who were financially reliant on a person who died can claim for the loss of that support. Your solicitor can give you more details about each of these types, and may advise you to make one, several or none of these claims. All claims depend on liability being established. Whether you can claim or not is dependent on your relationship to the person who died. Your solicitor can advise you.

1 Loss of support 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 loss of support 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 loss of support 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 support claim can also be made for loss of income from a pension of someone who had died.

If you are making a 'loss of support' 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 may be required to prove loss of support claims.

2 **Service claims**

A service claim may include a claim for loss of services provided by the person who has died, including childcare, DIY, or other domestic jobs. It can also include services provided for a loved one if they survived the crash for a period prior to death, such as nursing or care services at home.

3 **'Loss of society' claims**

A payment can often be made for your bereavement. This is called a 'loss of society' claim. The claim aims to provide some level of compensation for the following: distress and anxiety over a loved one's suffering prior to their death; grief and sorrow over a loved one's death; and the loss of a loved one's 'society and guidance' due to their death. The amount that can be claimed depends on the nature of your relationship with a person who died and other factors, including the age of a person who died. Many relatives of someone who has died can claim. Your solicitor can advise you.

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 **Compensation for psychiatric suffering**

If you are found to have developed a psychiatric condition, commonly post-traumatic stress disorder (PTSD), it may be possible to claim compensation for this condition. However, only certain people, in certain situations, can claim for this. Your solicitor can advise you.

6 **Funeral expenses**

The cost of the funeral, or most of the cost, can be claimed from a liable party.

7 **Claims for children aged under 16**

Money can be claimed on behalf of a child or children under the age of 16. An adult will normally pursue the claim on their behalf. This adult is usually a parent or guardian. The court may appoint someone independent to act on the child's behalf.

8 **Claims 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.

Fatal motor claim procedures

Starting a claim

You and your solicitor will decide whether you should claim, what claim(s) to submit and how much to claim. Depending on the size of your claim, your solicitor will usually issue a summons in the Court of Session or in the Specialist Personal Injury Court (both in Edinburgh), but may issue a writ in a Sheriff Court instead. Most claims must be made by your solicitor within three years, although sometimes claims must be made within two years. 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 insurer 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 loss of support 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.

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.

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. Depending on the case, your solicitor will usually issue a summons in the Court of Session or in the Specialist Personal Injury Court, but may issue a writ in a Sheriff Court.

If your solicitor has issued a summons or a writ against the other side, it does not necessarily mean your case will proceed to a full court hearing where witnesses give evidence. Your solicitor will continue to try to negotiate a settlement with the other side. In some cases an interim payment (or part payment) is made by the other side prior to a final payment.

Tenders (formal offers made during court action)

A formal offer called a tender may be made by the other side. If you reject a tender and then later negotiate or are awarded a settlement which is the same or less than the amount tendered, you will be liable for the legal fees of both sides from the date of the tender. If the final settlement is higher, the other side will probably have to pay most, if not all, your legal fees. Tenders should be carefully considered.

There are many reasons why it may be better to negotiate a settlement out of court. Success in court cannot be guaranteed and you cannot pre-determine the decision of a sheriff or jury. Also, your case may take a long time to be heard in court. Sometimes, the other side will make an acceptable offer just before a case is due to be heard in court.

Going to court

If a negotiated settlement cannot be reached, your case will be decided in court. Your claim will usually be dealt with in the Court of Session or the Specialist Personal Injury Court. Both courts are in Edinburgh. Your solicitor may or may not try to have your case heard in front of a jury rather than a judge or sheriff sitting alone. Sometimes a case is dealt with in a local Sheriff Court. Your solicitor will advise you.

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.

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 2 of this book.

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

Complaining about, or changing, your 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 'client relations manager'.

If you remain dissatisfied, it may be possible to change solicitor. The organisations listed on page 78 will be able to give you advice about alternatives.

If you have a serious complaint about a personal injury solicitor in Scotland, you can make a formal complaint to The Scottish Legal Complaints Commission by completing a form. Contact them on 0131 201 2130 or go to www.scottishlegalcomplaints.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 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' or 'outlays'. 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. Your solicitor should help you to take out a legal expenses insurance policy that covers you against this risk. However, there are a number of ways to pay for any legal costs you incur that do not require you to be able, personally, to afford to pay very much money.

Speculative fee agreements or damages-based agreements (no win, no fee)

Many solicitors offer a speculative fee agreement (SFA) or damages-based agreement (DBA), sometimes known as a 'no win, no fee' arrangement.

Under these arrangements, you don't pay any money to your solicitor up front. If your claim is successful, your solicitor may or may not charge you a 'success fee', in addition to their costs being paid by the other side.

Before starting your claim, you should agree with your solicitor, in writing, the size of the success fee they can charge if your claim succeeds.

Under a SFA, a success fee can be up to the same amount again as your solicitor's legal costs. Under a DBA, a success fee is assessed as an agreed percentage of the damages awarded.

One important advantage of a SFA or DBA is that you are protected against having to pay the other side's costs if your claim fails.

Under a speculative fee or damages-based agreement it should not be necessary for your solicitor to charge you any money as the case proceeds, nor expect you to carry any risk if your case fails. If your solicitor proposes this, you may wish to consult a different solicitor.

Paying upfront

Some people choose to pay their solicitor as they go along. You may be able to do this if:

- You can afford to pay a solicitor.
- You are insured for legal expenses. It is worth checking the details of motor and house insurance policies and membership of bodies such as trade unions, although sometimes these policies don't provide enough cover. Your solicitor can advise you.

Legal aid

If you have disposable income below a certain level, you may qualify for legal aid. Legal aid is help towards the costs of legal advice and representation provided by a solicitor and is paid for out of public funds.

Legal aid may be free or you may have to pay a contribution towards the costs of your case. Legal aid does not cover your opponent's legal costs.

Should you lose your case, you may be ordered by the court to pay some or all of your opponent's costs. You may be able to apply to the court to have this sum reduced. In such instances, you should seek the assistance of your solicitor. To find out more about legal aid or to obtain help in finding a solicitor who is registered to provide a legal aid service to you, contact the Scottish Legal Aid Board's helpline on 0131 226 7061 or go to www.slab.org.uk

Rogue offers of help

Someone called a claims assessor, a claims handling company or a claims management company (CMC) may offer to pursue your claim for you, often on a 'no win, no fee' basis. They are not personal injury solicitors, and are not qualified or regulated to the standards of solicitors.

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

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

Useful organisations

Useful organisations

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

Charities for road crash victims:

Brake

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

Helpline 0808 8000 401 (Mon-Fri 10am-4pm) or helpline@brake.org.uk

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

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). 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

Office 020 7733 1603 or info@roadpeace.org

www.roadpeace.org and 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)

Office enquiries 01484 723649 or info@scard.org.uk and cadd@scard.org.uk

www.scard.org.uk and www.cadd.org.uk

SCID (Scotland's Campaign against Irresponsible Drivers)

SCID campaigns for tougher road traffic law and the rights of road crash victims. SCID offers ongoing phone and face-to-face emotional support and advice for bereaved families of fatal road crashes in Scotland to guide them through the civil and criminal justice systems. This support is provided by volunteers, subject to availability.

www.scid.org.uk

Other organisations that are concerned about death and injury on the road:

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 enquiries@busk-uk.co.uk

www.busk-uk.co.uk

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

www.learnandlive.org.uk

RoSPA (Royal Society for the Prevention of Accidents)

RoSPA's road safety department raises awareness about the causes of road crashes and promotes measures to help prevent them.

This charity does not provide support services for road crash victims.

0121 248 2000 or help@rospa.com

www.rospa.com

Government bodies with responsibility for criminal justice in Scotland:

- **The Scottish Government**

In Scotland, the Cabinet Secretary for Justice is responsible for the Scottish Criminal Justice System, including matters concerning victims of crime, and for some aspects of traffic policing including administration of speed cameras and the Driver Improvement Scheme.
0300 244 4000 or ceu@gov.scot
www.gov.scot or www.mygov.scot

- **Police Scotland**

Has a road policing business area that has some responsibility for determining policing policy. Other policies are determined by the Chief Constable.
101 or fill in the contact form on the Police Scotland website
www.scotland.police.uk

- **The Crown Office and Procurator Fiscal Service (COPFS)**

COPFS is responsible for the prosecution of crime in Scotland, the investigation of sudden or suspicious deaths and complaints against the police.
01389 739 557 or EnquiryPoint@copfs.gsi.gov.uk
www.copfs.gov.uk

- **Scottish Courts and Tribunals Service**

The Scottish Courts and Tribunals Service is responsible for providing the staff, buildings and technology to support Scotland's courts and tribunals, the work of the independent judiciary, the courts' Rules Councils, the Office of the Public Guardian and the Accountant of the Court. In April 2010 it was established by the Judiciary and Courts (Scotland) Act 2008 as an independent body, governed by a corporate board and chaired by the Lord President, the most senior judge in Scotland.

0131 444 3300 or enquiries@scotcourts.gov.uk

www.scotcourts.gov.uk

- **Scottish Prison Service**

The Scottish Prison Service is an agency of the Scottish Government responsible for prisons.

0131 244 8745

or gaolinfo@sps.pnn.gov.ukwww.sps.gov.uk

- **Parole Board for Scotland**

The Parole Board for Scotland makes decisions about early prisoner release.

0131 244 8373

www.scottishparoleboard.gov.uk

Scottish legal contacts listed elsewhere in this pack:

- **Criminal Justice System:** Turn to page 76 for details of who to contact if you have comments about the criminal justice system.
- **Personal Injury Solicitors:** Turn to page 78 for details of organisations listing personal injury solicitors.

Government bodies with responsibility for road safety in Scotland:

- **The Scottish Government Transport Directorate**

The Minister for Transport and Islands is responsible for road safety policy in Scotland.

0300 244 4000 or ceu@gov.scot

- **Local highway engineers and road safety officers**

Local authorities are responsible for improving road safety on local roads. They employ highways engineers, who are responsible for local speed limits, traffic calming, pedestrian crossings and other aspects of road design. Local road safety officers are responsible for local road safety education and publicity. They may be employed by local authorities or by police forces. For contact details, contact your local authority.

- **Transport Scotland**

Transport Scotland is responsible for trunk road safety.

0141 272 7100 or info@transport.gov.scot

www.transport.gov.scot

- **Road Safety Scotland**

Road Safety Scotland is funded by the Scottish Government to produce road safety education resources and run road safety publicity campaigns in Scotland, working with local authorities and police.

0131 244 6133 or fill in the contact form on the Road Safety Scotland website.

www.roadsafetyscotland.org.uk

- **Traffic Commissioner for Scotland**

The traffic commissioner is an appointed official with responsibility for licensing companies to operate lorries, buses and coaches. The traffic commissioner has the power to issue and take away an operator's licence.

0300 123 9000

UK-wide Government departments:

- **The Home Office**

The Home Office is responsible for reviewing UK charges and penalties for traffic offences (many of which, although not all, apply in Scotland).
020 7035 4848 or public.enquiries@homeoffice.gsi.gov.uk
www.gov.uk/homeoffice

- **The Department for Transport**

The Department for Transport is responsible for many areas of road safety policy, ranging from setting the drink drive limit to road safety TV campaigns. The Department for Transport also commissions research on road safety topics.
0300 330 3000
www.gov.uk/dft

- **Driver and Vehicle Licensing Agency**

The DVLA promotes road safety and general law enforcement by licensing and maintaining registers of drivers and vehicles, and collecting vehicle excise duty (tax).
www.gov.uk/dvla

- **Driver and Vehicle Standards Agency**

The DVSA sets standards for driving and ensures drivers, vehicle operators and MOT garages follow roadworthiness standards. It also provides a range of licencing, testing, education and enforcement services.
www.gov.uk/dvsa

Your political representatives:

- **Your local councillor**

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

- **Your Member of the Scottish Parliament (MSP)**

Your MSP's job is to represent your interests in the Scottish Parliament. You may want to write to or meet him/her to discuss any aspect of your case which you think s/he could act upon.

You can find out the name of your MSP by calling 0131 348 5395 or by going to www.parliament.scot and typing in your postcode.

You can write to your MSP at the Scottish Parliament, Edinburgh EH99 1SP

- **Your Member of Parliament (MP)**

Your MP's job is to represent your interests in Parliament. You may want to write to or meet him/her to discuss any aspect of your case which you think s/he could act upon.

You can find out the name of your MP by going to the website www.parliament.uk and clicking on 'contact us' and then entering your postcode in the box on the right or by calling Parliament on 020 7219 4272

You can write to your MP at the House of Commons, London, SW1A 0AA

Organisations supporting people bereaved by any cause:

- Cruse Bereavement Care Scotland 0845 600 2227
www.crusescotland.org.uk and for children and young people
www.hopeagain.org.uk
- The Samaritans operates a 24 hour helpline for anyone in need on
116 123 www.samaritans.org

If your partner has died:

- WAY Widowed and Young www.widowedandyoung.org.uk

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

- Child Bereavement UK 0800 028 8840
www.childbereavementuk.org
- The Child Death Helpline 0800 282 986 or 0808 800 6019
www.childdeathhelpline.org.uk
- The Compassionate Friends 0345 123 2304 www.tcf.org.uk
- Care for the Family 029 2081 0800 www.careforthefamily.org.uk

Organisations campaigning for sustainable transport:

- Campaign for Better Transport promotes sustainable and public transport.
www.bettertransport.org.uk
- Living Streets promotes safety and accessibility for pedestrians.
www.livingstreets.org.uk
- Sustrans develops paths for walkers and cyclists. www.sustrans.org.uk

Citizens Advice Scotland

If you need any other contacts your local Citizens Advice service may be able to help. It can provide access to free, impartial and confidential advice, including on financial and legal matters. For your nearest office, you can look in your phone book or contact Citizens Advice Scotland on 0808 800 9060 or visit www.cas.org.uk.

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Acknowledgments

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Association of Personal Injury Lawyers (APIL)	SACRO
Centre for Forensic & Legal Medicine, University of Dundee	SCID (Scotland's Campaign against Irresponsible Drivers)
Citizens Advice Scotland (CAS)	Scottish Children's Reporter Administration
Crown Office and Procurator Fiscal Service (COPFS)	Scottish Courts and Tribunals Service
Digby Brown Solicitors	Scottish Donation and Transplant Group
The Foreign and Commonwealth Office	The Scottish Government Health Department
Independent Press Standards Organisation (IPSO)	The Scottish Government Justice Department
Mark B. Shaw, Independent Funeral Director	Scottish Justices Association
Motor Accident Solicitors Society (MASS)	Scottish Prison Service
National Association of Funeral Directors	Scottish Sentencing Council
National Records of Scotland	Society of Trust and Estate Practitioners (STEP)
The National Society of Allied and Independent Funeral Directors (SAIF)	Thomas Cuthell & Sons, Funeral Directors
The Natural Death Centre	Transport Scotland
NHS Blood and Transplant	Victim Support Scotland
Parole Board for Scotland	
Police Scotland	

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

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