

Collision investigation guide for families of cyclists killed by HGVs



“My younger sister, Eilidh Jake Cairns, was killed in a collision with a lorry in London in February 2009 whilst commuting to work. The fact that she was such an experienced cyclist, so very familiar with her route, and aware of the dangers of HGVs, leaves me reeling with an even greater inability to comprehend.

Sadly I know she was not the last. So we are working to reduce the risk to other cyclists. We also want to help the bereaved. This guide is intended to help families with the most heartbreaking of tasks: trying to stay focused and make sense of the investigation into the sudden death of your loved one.”

Kate Cairns

If you are reading this guide because someone close to you has been killed in a collision, we offer our sincere condolences. A road death is not a natural death, but a sudden, violent and premature death, which is shocking and devastating for the family and friends of the victim.

On average, one cyclist is killed on London’s roads every month, and over half of these fatal collisions involve a Heavy Goods Vehicle (HGV), in many cases turning left at a junction.

HGVs pose a particular danger to cyclists. In a collision with an HGV, a cyclist is over 17 times more likely to die than when hit by a car.

This guide is a summary of key points specific to collisions when a cyclist has been killed by an HGV. It is intended to help you clarify what the police know about the collision, to contribute to your understanding of what has happened to your loved one.

Who and what can you ask?

The Police will assign a Family Liaison Officer (FLO) who will keep you informed of the progress of the investigation. Their role is to act as a ‘messenger’. You may also want to ask for a meeting with the Senior Investigating Officer (SIO) who has the lead on the investigation.

Please be aware that it will not be possible for all your questions to be answered immediately, but they should be answered during the course of the collision investigation.

This guide is not meant to be exhaustive and should be read in conjunction with RoadPeace's Road Death Investigation Guide for Bereaved Families.

Collision and immediate post-collision circumstances

- How did the collision occur? On what/whose evidence is this based?
- At what speed did the impact occur? How fast was the HGV travelling before the collision? How was this estimated?
- Is the point of first impact known? How does this relate to the final resting point of the HGV and the cycle following the collision?
- From which directions were the HGV and the cyclist travelling?
- Were there any other vehicles involved in the collision?
- How long (how many seconds) would the cyclist have been visible to the HGV driver? How was this estimated?
- How long (how many seconds) would the cyclist have been aware of a potentially dangerous conflict with the HGV?
- Is there any information about the positioning or behaviours of the other road users?
- Was the HGV or the cycle moved prior to the arrival of the police?
- Was the site attended by the Traffic Police or Borough Police?
- Did anyone take any photos?

Collision site

- If the collision occurred at a junction, was there a cyclist advanced stopping area and/or a cycle lane leading to it?
- The highway authority responsible for the road should make a site inspection to see if the road environment contributed to the collision. How can you be informed of the findings?
- Have there been any other relevant incidents at the site, either reported or anecdotal? For example collisions, near misses, or is it a well known danger spot?
- Is there a sketch map of the collision scene that you could have?

Witnesses and CCTV coverage

- How many witnesses saw the collision occur? How many saw the cyclist and vehicle(s) involved before the collision or witnessed the aftermath?
- Are there any CCTV (private or council) or traffic enforcement cameras at the site? What about the approach roads that the HGV and cyclist used? Has anyone viewed any footage?
- What else can be done to identify other possible witnesses?
- When will the formal witness interviews be conducted?

A witness appeal should be done as soon as possible, as collision investigations can be hindered by a lack of witnesses. Some families have found it useful to initiate their own witness appeal, and this could be something that friends can help you with. This may include leafleting at the crash site, or appealing to the local or national media, and using the internet. Your FLO may also be able to help you with this. The local cycle campaign group can also be contacted and may be able to help.

Cyclist

- Was the cyclist distracted in any way?
- Where was the cyclist positioned on the road?
- Was the cyclist undertaking the HGV?

Witnesses, and the driver, will be asked for information about the victim's manner of cycling and their conspicuity. Sadly, the victim is unable to give their account of what happened.

Families will also be asked to give a statement about the victim, including their physical and mental health. They will also be asked about the victim's cycling experience, including the number of years cycling and any training received. Please clarify if the victim was familiar with the route or aware of the dangers posed by HGVs. You should be aware that this information may be used as part of the investigation.

HGV driver

- **Drink/drugs:** has the driver been tested? What are the results?
- **Eyesight:** has the driver been asked about their eyesight? Has this been tested by a qualified person? Does the driver need to wear glasses? Were they being worn?
- **Licence:** is the driver correctly licenced for the vehicle being driven? Does the driver have any previous driving convictions, specifically any related to driving an HGV?
- **Mobile phone:** have the driver's mobile phones (work and personal) been checked for usage around the time of the collision?
- **Fatigue:** have the records of both the driver's driving and working hours been checked?
- **Distraction:** were there any passengers in the HGV? Was the driver smoking, eating, listening to loud music, or changing the radio?
- **Route familiarity:** did the driver know the road? Was the driver lost?
- **Statement:** has the driver given any explanation why the crash occurred? Have the police questioned the driver, or taken a formal statement?
- **Arrest:** has the driver been arrested? If so, what is the basis for this arrest?

HGV

- Was the driver's field of vision from inside the vehicle checked and documented at the scene of the collision?
- Did the HGV have a nearside close proximity (class V) mirror (these are compulsory for HGVs registered after 2000)?
- Did the HGV have a forward facing (class VI) mirror (these are compulsory for post 2007 HGVs)?
- **Vehicle proximity sensors and alarms:** was the HGV fitted with any sensor alarms?
- **Mirrors:**
- Were all the mirrors properly adjusted for the driver's height?
- Was there a blindspot? How big and how high was it? Was it unavoidable?

- Which police officer carried out this check?
- Did anyone adjust the mirrors after the collision, but prior to inspection?
- Has the vehicle been examined by a Vehicle Examiner?
- If the HGV was turning, did it have its turn indicator on and was the indicator light working?
- Did the HGV have a sideguard? If not, was it required to have one?
- When will the tachograph be examined and what information will be sought?
- Have the daily vehicle inspection records been examined? What, if any, are the implications of these?
- Has this HGV been involved in any collisions previously?
- When will the HGV be released?

HGV company

- Is there any evidence that organisational failings contributed to the collision? This could include the employer not checking the driver's license, requiring excessive driving or working hours, poor vehicle maintenance practices, or lack of duty of care with routes and scheduling.
- Has the company been involved in other fatal or serious injury collisions?
- Have there been any complaints against this driver or other drivers under the company employ?
- In London:
 - a. the Commercial Vehicle Education Unit, part of the Metropolitan Police Service, will visit the HGV company. When will this happen and how will you be informed of the outcomes?
 - b. Are they a member of Transport for London's FORS (Freight Operators Recognition Scheme)?

Next stage

The police will pass their collision investigation file to the Crown Prosecution Service (CPS) who is responsible for making the charging decision. The police are able to make a charging recommendation.

Based on the CPS' charging decision, there will either be an inquest, criminal prosecution or both. There may also be a civil compensation claim even where there is no criminal prosecution. However, it should be noted that it is very rare for collisions involving cyclists to end up in court, most cyclist deaths involving an HGV result only in an inquest.

Inquest

If the driver is being prosecuted for causing the death of the cyclist, there will not be a full inquest. But if the driver is charged for a summary offence, such as a defective tyre, then there will be a full inquest. Summary offences are heard in the Magistrates' Courts, and must be charged within six months of the collision.

The police investigation findings of the crash will be reviewed at the inquest but the coroner cannot make any decisions regarding criminal or civil liability. The coroner is able to write to any of the organisations involved, eg the HGV company or the responsible road authority, and ask for improvements to be made to reduce the risk of future deaths.

Criminal prosecution

If the CPS has recommended a criminal prosecution, then the case will be sent to the Magistrates' Court. Depending on the charge, it will either be heard there or referred to the Crown Court.

The CPS will contact the family and offer a meeting where they will explain their decision.

Civil compensation

It may be possible to claim compensation from the driver (and therefore payable by the HGV's insurers) on behalf of the deceased's estate and for someone who was financially dependent on the deceased. However, this will be dependent on the circumstances of the crash, as it is necessary to prove on a balance of probabilities that the collision was due to the driver's negligence. This burden of proof is lower than is required for a criminal prosecution where the CPS must prove that it was beyond reasonable doubt that the driver was, for example, driving dangerously. Therefore, it is still possible to claim compensation where there is no criminal prosecution. Please consult a specialist personal injury solicitor.

Preventing future tragedies

We hope this guide has been useful. A thorough investigation following a road death is essential, not only out of respect for the victim, but also to ensure that lessons are learned to help prevent future similar tragedies.

Please contact any of the organisations below for more information on work being done to reduce the threat of HGVs to cyclists.

CTC

www.ctc.org.uk

London Cycling Campaign

www.lcc.org.uk

RoadPeace

www.roadpeace.org

RoadPeace offers emotional and practical support to those bereaved and injured through road crashes. Its helpline number is:

0845 4500 355

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