

## CONSULTATION REGARDING THE GUIDANCE ON CHARGING OFFENCES ARISING FROM DRIVING INCIDENTS

The consultation closes on **8 November 2012**. Responses can be submitted by email to [HQ.DrivingConsultation@cps.gsi.gov.uk](mailto:HQ.DrivingConsultation@cps.gsi.gov.uk)

When responding it would be helpful if you would complete the form below.

Please fill out your name and address or that of your organisation if applicable.

You may withhold these details if you wish but we will be unable to include you in future consultation exercises.

### RESPONSE SHEET

Please complete the following information.

<b>Manner of preferred address: Mr/Mrs/Ms</b>	Dr
<b>First Name</b>	Rachel
<b>Family Name</b>	Aldred
<b>Any organisation you represent</b>	I am Senior Lecturer in Transport at the Department of Planning and Transport, University of Westminster
<b>Postal Mailing Address</b>	Dr. Rachel Aldred Senior Lecturer in Transport Department of Planning and Transport School of Architecture and the Built Environment University of Westminster Marylebone Campus 35 Marylebone Road London NW1 5LS
<b>Contact telephone number</b>	020 79115021
<b>Email Address</b>	r.aldred@westminster.ac.uk

Please record your comments/views on the Driving Guidance in the box below.

<p>I am responding to this consultation as a transport researcher with particular expertise in cycling, which government seeks to encourage as a healthy and sustainable mode of transport. A key area of concern for me is the disproportionate risk faced by cyclists in the UK, compared for example to risks experienced by cyclists in countries such as The Netherlands and Denmark (which incidentally have much lower rates of use of helmets and high visibility clothing than the UK). The legal system can play a role in addressing (or aggravating) this problem, through its impacts on driver behaviour. I believe that:</p> <p>(i) there is a pressing need to address the growing claims that vulnerable groups (such as cyclists) may be failed by the current legal system, and to</p>
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update procedures and guidance (for example, in terms of periods of disqualification from driving) to ensure that justice is seen to be done for these groups, and

(ii) in particular, the proposed exemptions for those responding to emergencies are problematic and evidence must be provided for us to judge their likely impacts and whether such exemptions should be allowed.

The legal system should support (or at least not counteract) policy goals of increasing active travel, and provide justice for those who are injured and killed by other road users. The two are linked as a failure to provide justice for the vulnerable can lead to reduced levels of walking and cycling, potentially producing an increased health burden due to reduced levels of physical activity (and additional economic and social problems due to increased motorised travel; see for example research on the costs of congestion, such as that discussed in the House of Commons Select Committee Report on Transport and the Economy, 2011).

Currently there is concern from a variety of organisations, and from across the political spectrum, that the legal system fails to provide justice for road victims, particularly groups such as cyclists. This has for example been expressed by British Cycling in its call for a review of sentencing in cases involving death or serious injury to a cyclist, and by the MP for North East Cambridgeshire, Stephen Barclay, who has set up a website seeking 'tougher sentences for dangerous drivers who kill'. Recent research by NatCen for DfT (Road Safety Research Report No. 122, Attitudes to Road Safety: Analysis of Driver Behaviour Module, 2010 NatCen Omnibus Survey) suggests similar concern about enforcement and sentencing for road offences exists in the wider community. That report found (2011: 5) that 'respondents found current levels of police enforcement of traffic laws too low and existing penalties for road traffic offences too lenient.'

My own research (see e.g. Aldred and Jungnickel 2012, Aldred 2012), like that conducted for DfT (2010 - Christmas, S. et al, Safety, Cycling and Sharing the Road: Qualitative Research with Cyclists and Other Road Users; DfT Road Safety Web Publication No. 17) has found that cyclists are particularly likely to be stereotyped as being incompetent and reckless, while motorists are not subject to a general stigma in this way. This stereotype persists despite the low risk posed by cyclists to other road users and the relatively high risk that motorised road users pose to them.

Extensive research into labelling in educational settings has demonstrated how negative perceptions of stigmatised groups shape the behaviour even of those who would consciously disagree with them. At one end of the spectrum, the belief that cyclists are reckless and incompetent may translate into deliberate abuse (Aldred, 2012); at another end, it may mean everyday acts of incivility that in a minority of cases lead to tragedy (e.g. if motorists regularly give cyclists insufficient space when overtaking; inevitably there will be cases where this leads to collisions). Thus I believe it is particularly important that our justice system seeks to show that it deals fairly and

equitably with cyclists, including addressing gaps in research that exist because research and policy agendas, like everyday road user behaviour, have been shaped by negative perceptions of cyclists.

**Some specific concerns I have relate to the following:**

The draft guidance recommends that emergency services personnel are not prosecuted for committing a driving offence unless the driving is dangerous or indicates a high degree of culpability. I believe that research is needed to establish the level of injury burden associated with emergency vehicles; so far, limited information has been available about this but what data there is suggests the injury burden may be considerable. We need to know what kind of a risk these drivers pose to others before we can assess whether treating them more leniently is appropriate.

Moreover, part of the concern expressed over the legal treatment of road injuries (see above) relates precisely to the classification of driver behaviour as 'careless' rather than 'dangerous'. Victims' organisation RoadPeace points to the preponderance of 'careless driving' charges over 'dangerous driving' charges, and states that more evidence is needed about why this is happening and at what stages of the legal process (especially given the original belief that there would be relatively little use of 'careless driving' charges). If as RoadPeace argues there is inappropriate classification of driving offences as 'careless' rather than 'dangerous', this would aggravate problems caused by allowing emergency service personnel to drive 'carelessly'. The guidance suggests that where members of the public are 'responding to an emergency situation' (such as taking a child to the hospital) similar exemptions should apply. This is also worrying as it appears to extend the exemption very broadly, and there is a lack of evidence about the threat posed by careless driving in such contexts.

I would endorse British Cycling's call for a review of cases involving cyclists; this should be used to update the guidelines to ensure that justice is done in these cases. More broadly, I believe we need a thorough review of the number of people injured or killed in collisions involving emergency vehicles and the kind of emergency they were attending. (This could be extended to collisions involving members of the public responding to emergencies, to establish the risk posed in those situations to others). A measure of risk for different kinds of emergency vehicles in different kinds of situations could be derived. At present we lack such evidence and I do not think exemptions should be allowed, given the lack of evidence about their likely impacts.

**Additional References**

Aldred, R. and Jungnickel, K. (2012) *Cycling Cultures: final report*, 2012. London: University of East London. Available at <http://www.cyclingcultures.org.uk/Final-report-cycling-cultures.pdf>  
Aldred, R. (2012) Incompetent or Too Competent? Negotiating Everyday Cycling Identities in a Motor Dominated Society, *Mobilities*, available online at <http://www.tandfonline.com/doi/abs/10.1080/17450101.2012.696342>