

Q&A

MEET THE EXPERTS



CHRIS JUDEN
CTC Technical Officer
and qualified engineer



DR MATT BROOKS
Cycling GP



PAUL KITSON
Partner from Slater & Gordon
(UK) LLP



'Car dooring' is not a driving offence. It falls under the Road Vehicle Construction and Use Regulations and carries a £1,000 maximum fine

LEGAL CAR DOOR DANGERS

Q A while ago, I read about Sam Harding, who suffered a fatal accident from 'car dooring'. I was 'doored' by a car driver and I couldn't work for a month. I have read that dooring is not a driving offence, and that it falls under the Road Vehicle Construction and Use Regulations (1986), No. 105. How many people have been prosecuted under this? What is the maximum penalty?

HAROLD EMMETT

A Cyclist injuries from car 'dooring' are not uncommon. Civil claims for compensation are numerous, prosecutions less so.

Civil claims

I have successfully pursued many 'dooring' personal injury claims for

cyclists. Generally vehicle insurers admit liability if it can be proved that the cyclist had little or no time to react to the hazard. This is usually the case even if the door was opened by a passenger. A driver has the responsibility to ensure that it is safe for passengers to alight from the vehicle and should give instructions when it is safe to do so. The driver is in a much better position to check what is going on behind due to the positioning of rear view mirrors. A driver should position the vehicle close to the kerb so that there is no gap between the vehicle and pavement.

On a busy road, passengers should if possible alight on the pavement side of the vehicle. It is important to establish liability on the part of the driver so that a claim can be made against an insured defendant. There would be

difficulties pursuing a claim against an insured driver if a passenger unexpectedly alighted.

In civil claims, negligence is normally self-evident; accordingly these cases very rarely result in a reported decision. There are, to the best of my knowledge, no reported civil court decisions on drivers opening a car door and only one case relating to a passenger. This was a 1963 case of *Brown v Roberts*. On the facts of that case, a pedestrian who was hit by a passenger door lost her case against the driver.

Prosecutions

As Mr Emmett correctly points out, prosecutions against drivers are brought under the Road Vehicles (Construction and Use) Regulations 1986, SI 1986 No. 1078, reg 105, which provides: 'No person shall open or cause or permit to be opened any door of a motor vehicle or trailer on a road so as to cause injury or danger to any person.'

Section 42 of Road Traffic Act 1988 states that a person who fails to comply with the Regulations is guilty of an offence. The maximum sentence is only a £1,000 fine or penalty notice. This is not much of a deterrent and will hardly satisfy a seriously injured cyclist – or the bereaved relatives of a cyclist.

Prosecutions under this legislation are apparently rare even though it is wide in scope;

CONTACT
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Send health and legal questions to the Editor (details on p80). We regret that Cycle magazine cannot answer unpublished health and legal queries. Technical and general enquiries, however, are a CTC membership service. Contact the CTC Information Office, tel: **0844 736 8450**, cycling@ctc.org.uk (general enquiries) or Chris Juden, technical@ctc.org.uk (technical enquiries). You can also write to: CTC, Parklands, Railton Road, Guildford, GU2 9JX. And don't forget that CTC operates a free-to-members advice line for personal injury claims, tel: 0844 736 8452.

TECHNICAL LIFE OF CABLES

Q I have a 20-year-old touring bike. During its life, most moving parts have been replaced, except for the brake cables. Should they be replaced? They are in good condition and show no signs of fraying.

ARTHUR WAY

A The only bad things that happen to used cables are corrosion, dirt and fatigue. The first two increase friction, so the brakes become less effective. Metal fatigue causes individual wires to snap, one by one until the cable is too weak for safety and liable to break instead of brake!



**Letter
OF
THE
MONTH**

After 20 years (or less) you'll surely need new casings, since accumulated wear, debris and grit are hard to remove from inside them. But if you've taken the cables out and found they clean up well with not a single wire broken, they're safe to keep using until you do find a break. The cable will have about 19 wires in total and probably won't fail until several have snapped. That's your safety margin for what may happen between inspections. Once a year should be often enough, provided cables are replaced at the first sign of fatigue.

Dismantle the cable completely for visual inspection. Flex the cable to open up any breaks so you can see them and pay especially close attention to the first few centimetres near the nipple.

CHRIS JUDEN

carelessness does not have to be proved, nor does the injury itself. It only needs to be proved that opening the door caused danger. This calls into question why there are not more prosecutions.

An example of the criminal law in application is *Atkins v Metropolitan Police* (1994). The driver parked her car in a hurry on the Kings Road, London and opened the door wide enough to get her foot out, causing a collision with a passing motorcyclist. The driver was convicted of an offence under the Regulations and her appeal on the basis that the motorcyclist was riding too close failed.

Prosecutions brought under the legislation are normally straightforward. But in the case of Sam Harding, a decision was made by the Crown Prosecution Service to prosecute the driver for manslaughter. In August 2012, Mr Kenan Aydogdu opened his car door in front of Mr Harding, who was cycling along the Holloway Road, London, causing him to be crushed by a bus. Mr Aydogdu's subsequent prosecution for manslaughter ended in acquittal, even though he had had the windows of his car coated with a dark plastic film, reducing visibility in and out of the car to 17%.

Sam Harding's father Keith said there was 'a gap in the law'. In the



Drivers have a better view than passengers, so are responsible for them alighting

Photo: f22photography

press reports, London Assembly Green Party member Jenny Jones indicated that the Metropolitan Police had issued an average of seven to nine fixed penalty notices per year for 'car dooring' in the past seven years. This is not many, given the number of cyclists killed or seriously injured in this manner, and is another example of why the CTC has quite properly launched the Road Justice Campaign.

PAUL KITSON

HEALTH WRIST WORRIES

Q After riding on a rough cycle path, a bump developed on my wrist. It feels solid but does not hurt when prodded. However, any twisting makes a loud click, and pressure to the heel of my hand can be excruciating. The doctor



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Wrist supports come in different varieties, so it can be worth trying others to find the most effective

sent me to a physio who gave me a short blast of ultrasound and a brace. It hasn't gone yet. What can I do?

JANE DEVLIN

A A ganglion is a benign cyst filled with thick jelly, commonly found on the wrist. They vary considerably in size. If a ganglion is not causing any problems, it is often best left alone.

The traditional cure was to hit a ganglion with a heavy book (a bible). This bursts the cyst under the skin and the fluid is reabsorbed into the body. This technique is rarely recommended nowadays. In some cases, where the jelly-like fluid is not too thick, it may be possible to aspirate (suck up) the fluid with a needle and syringe. There is a chance that the cyst will recur as the cyst wall is not removed.

Surgical removal is the most successful permanent cure, with a smaller chance of recurrence. But given the current financial restrictions within the NHS, it is an operation which is not routinely funded in most areas unless the ganglion is causing a lot of pain or disruption of daily activities.

Soft tissue damage to the wrist triangular cartilage can be treated in the usual way (Rest, Ice, Compression and Elevation). Consider a short course of anti-inflammatories like Ibuprofen if you can take them. Padded cycling gloves should help. Look also at your position on the bike. Some cyclists find a lower saddle, raised handlebars and a shorter stem reduces pressure on the wrist, but you may need to experiment as each case will differ. Change the position of your hands on the bars frequently and ensure your

grip is not too tight. Bumpy tracks and rough terrain would seem best avoided. If all else fails, you may need to rest while it improves. Different wrist supports may be worth a try.

DR MATT BROOKS

TECHNICAL CRACKED HEAD TUBE

Q A crack has developed in the head tube of my Claud Butler Regent bicycle. My wife's Regent has developed a similar, less extensive crack. The bicycles have aluminium frames and both are about five years old. Can they be ridden as they are? Can they be repaired economically?

RC SHAKESHEFF

A A fatigue crack, beginning underneath and close to the head-tube/down-tube junction, then growing upwards, is a common frame failure mode. It arises simply from riding the bicycle: 'over the rocky roadsteads of this parish', as Flann O'Brien put it. One generally has to ride a bike a whole lot further than you and your wife are likely to have ridden in only five years before it begins to 'crack up'.

But aluminium is less resistant to fatigue than steel, so a crack is likely to manifest sooner in that material, which is why alloy frames tend to come with much shorter guarantees, sometimes as short as five years. It's nevertheless worth checking the paperwork that came with those bikes, in case you are entitled to a no-quibble replacement.

Even if they're out of warranty, the Sale of Goods Act gives the purchaser six years to claim that goods are not fit for purpose due to a manufacturing

defect. And I think these frames are most probably defective. The location of the crack speaks to me of excessive tensile strain from fitting the headset, additional to the normal strains of riding the bike. For a crack to appear here, one or both of the following must apply: the tube walls are too thin and/or the headset fit was too tight.

I cannot imagine any plausible abuse that you and your wife might have perpetrated upon your bicycles, so as to cause such cracks in both. And in so far as the shorter crack in your wife's frame is consistent with her weighing less than you and/or using the bike a little less often, this would support a contention that the cracks arise from normal use and hence the goods are unfit for purpose. However, you are now rather close to the six year cut off, after which any failure becomes fair wear and tear – even if the goods have been used so little that doesn't seem very fair! So the best you might expect is a discount on the cost of a new frame, and in that case it's probably not worth the trouble of going to court.

It would not be economical to repair these frames. They could perhaps be reinforced against complete collapse. A tightly-fitting steel ring, pressed over the bottom of the head tube, would relieve stress on this tube and may prevent growth of the crack, which must be marked and closely monitored. A small round hole, drilled at or slightly beyond the visible crack tip, might also help, but will not by itself arrest further growth.

Do not ride the bikes until the frames have been replaced or reinforced. The crack in yours is already quite long and would not have to grow much further (if at all) before the next bump could split open the head tube, releasing the fork and dumping you onto the road!

CHRIS JUDEN



A head tube crack like this is serious. Do not ride a bike in this condition