

Information Re Cycling on Pavements etc..

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CYCLING AND THE LAW

**"Can my 11 year old cycle on the pavement?"
and "Can I be done for cycling furiously?"
and many other UK-specific legal questions
answered. By Carlton Reid.**

Many cyclists are afraid of vehicular traffic so cycle on footpaths. While understandable at certain busy intersections and the like, it's very much against the law. If a certain stretch of road is deemed too dangerous to cycle on, choose an alternative route or walk your bike on the dangerous stretch. If you ride on the footpath, you could cop a fine and you'll certainly antagonise pedestrians.



Cycle, it's quick

Bicycles are, in law, carriages (as a consequence of the Taylor v Goodwin judgment in 1879) and should be on the road not pavement.

However, despite what was said above, it's confusing for cyclists and pedestrians because many local authorities allow cycle access to what look like footpaths. Pedestrians often don't know where they stand, literally.

Cycling on footpaths is bad PR for cycling but it's got to be said that the greater offence of driving on footpaths is generally ignored by society. 'Pavement parking' is a menace yet is rarely highlighted as such by the sort of newspapers who like to rant about 'Lycra louts' cycling on footpaths. Ditto for driving and parking in cycle lanes.

FOOTWAY or FOOTPATH?

Are you ready for some confusing definitions? **Footpaths, pavements, footways, highways.** It's all potentially mind-numbing stuff, of arcane interest to lawyers and right-of-way buffs, but perhaps not terribly applicable in the real world, especially when you add to the mix the fact that Americans consider 'pavement' to be the road. If you're American, stop reading this now, your head will explode.

A **Cycle Track** (also see below) means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles

within the meaning of the Road Traffic Act 1972) with or without a right of way on foot [Section 329(1) Highways Act 1980]. The words in brackets were inserted by section 1 of the Cycle Tracks Act 1984. Cycle tracks may be created through conversion of a footway or footpath or newly constructed.

A **Footpath** means a highway over which the public have a right of way on foot only, not being a footway [Section 329(1) Highways Act 1980].

A **Footway** means a way comprised in a highway, which also comprises a carriageway, being a way over which the public has a right of way on foot only [Section 329(1) Highways Act 1980].

Because cycle tracks are often signed poorly, it can be difficult to know where one starts and then stops. For instance, how far does the remit of a traffic sign extend? Cycle campaigner Howard Peel says: "I would suggest that the extent ultimately depends on the wording of the Traffic Regulation Order which brought the cycle path into existence.

"It could happen that someone might start to ride on shared-use footway/cycle path after seeing an approved 'Cycle path' sign, assuming that they could continue to ride on the path until they saw a sign declaring it was no longer a cycle path, but as this sign was missing inadvertently continue onto a section of footway not included in the original TRO. In such a case they could very probably avoid prosecution for cycling on the footway if they highlighted the absence of the required sign.

"Then again, as a cycle path is supposed to be equipped with repeater signs as well the police might argue that once someone was riding on section of footway with no cycle path repeater signs, they should assume it was no longer a cycle path and use the road instead!"

Cycling on *footways* (a pavement at the side of a carriageway) is prohibited by *Section 72 of the Highway Act 1835, amended by Section 85(1) of the Local Government Act 1888*. This is punishable by a fixed penalty notice of £30 under *Section 51 and Schedule 3 of the Road Traffic Offenders Act 1988*.

Cyclists have no right to cycle on a footpath away from the road but only commit an offence where local by-laws or traffic regulation orders create such an offence.

Paul Kitson, partner at cyclist-friendly solicitor Russell, Jones and Walker of London says: "There may also be offences committed in relation to 'walkways' (which is a footpath under a walkway agreement) under *Section 35 of the Highways Act 1980*. However,

the conditions on which these can be ridden is dependent on local council bye-laws, which vary from council to council."

HOWARD PEEL ADDS:

It is important to note that most legislation relating to 'cycling on footpaths' actually relates to the riding of cycles on a 'footway set aside for the use of pedestrians' which runs alongside a road. For example, the 'fixed penalties' brought in a few years ago do NOT apply to country footpaths where there is no road. Fixed penalty notices also cannot be applied to areas such as parks, shopping precincts etc. unless a byelaw has been passed making cycling such areas an offence, nor do they apply to anyone under 16. Many people (including police officers) seem to think that 'a footpath is a footpath' wherever it is and that the same laws apply. This is not the case.

The primary legislation which makes cycling on a footway an offence is *section 72 of the 1835 Highways Act*, this provides that a person shall be guilty of an offence if he "shall wilfully ride upon any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot-passengers or shall wilfully lead or drive any carriage of any description upon any such footpath or causeway."

Section 85 of the Local Government Act 1888 extended the definition of "carriage" to include "bicycles, tricycles, velocipedes and other similar machines."

The object of *Section 72 Highways Act 1835* was intended not to protect all footpaths, but only footpaths or causeways by the side of a road, and that this is still the case has been ruled in the high court. The legislation makes no exceptions for small wheeled or children's cycles, so even a child riding on a footway is breaking the law. However, if they are under the age of criminal responsibility they cannot, of course, face prosecution.

On 1st August 1999, new legislation came into force to allow a fixed **penalty notice** to be served on anyone who is guilty of cycling on a footway. However the Home Office issued guidance on how the new legislation should be applied, indicating that they should only be **used where a cyclist is riding in a manner that may endanger others**. At the time Home Office Minister Paul Boateng issued a letter stating that:

"The introduction of the fixed penalty is not aimed at responsible cyclists who sometimes feel obliged to use the pavement out of fear of traffic and who show consideration to other pavement users when doing so. Chief police officers, who are responsible for enforcement, acknowledge that many cyclists, particularly children and young

people, are afraid to cycle on the road, **sensitivity and careful use of police discretion is required.**"

Almost identical advice has since been issued by the Home Office with regards the use of fixed penalty notices by 'Community Support Officers' and wardens.

"CSOs and accredited persons will be accountable in the same way as police officers. They will be under the direction and control of the chief officer, supervised on a daily basis by the local community beat officer and will be subject to the same police complaints system. The Government have included provision in the Anti Social Behaviour Bill to enable CSOs and accredited persons to stop those cycling irresponsibly on the pavement in order to issue a fixed penalty notice.

*I should stress that the issue is about inconsiderate cycling on the pavements. The new provisions are not aimed at responsible cyclists who sometimes feel obliged to use the pavement out of fear of the traffic, and who show consideration to other road users when doing so. Chief officers recognise that the **fixed penalty needs to be used with a considerable degree of discretion and it cannot be issued to anyone under the age of 16.** (Letter to Mr H. Peel from John Crozier of The Home Office, reference T5080/4, 23 February 2004)*

CYCLE PATH, CYCLE TRACK OR CYCLE LANE?

Cycle Track is the most official term, as it's used in the legislation noted above, but, nevertheless, it can often mean different things to different people. The definitions for the three terms above are used fast and loose in the world of cycling. And 'bike' or 'bicycle' are often used instead of 'cycle'.

Here's a set of definitions supplied by Dr John Parkin, Reader in Transport Engineering and Planning, Department of the Built Environment at the University of Bolton:

Cycle lane: lane marked out by painted lines within the carriageway.

Cycle track: a route other than within the carriageway (e.g. on a footway adjacent to a carriageway, adjacent to a carriageway but separate from it and the footway, or a route completely separate from a highway - and which could be "permissive" or be a "right of way").

Cycle path: A grey area word used by many to mean a variety of things. Americans favour this description, especially in the form of 'bike path', but it's best avoided in the UK.

Many cycle lanes can now be found on footways, with signage and markings telling cyclists and pedestrians the route is for '**shared use**'. Cyclists must not assume this means they have right of way on the cycle 'half' of the shared-use facility. According to this **Code of Conduct** from the Department of Transport, cyclists should "always respect pedestrians even if they stray onto the cycling side (if there is one); they are entitled to do so. Always thank people who move out of your way."

CAN CHILDREN CYCLE ON PAVEMENTS?

According to the Department for Transport (DfT), the maximum fine for cycling on the pavement from the courts is £500. However it is more usually enforced by way of the Fixed Penalty Notice procedure (FPN) which carries a £30 fine if pleading guilty. However, there is a view that the FPN can only be issued to those over 16.

"The DfT view, from discussions with Home Office, is that the law applies to all but the police can show discretion to younger children cycling on the pavement for whom cycling on the road would not be a safe option."

The age of criminal responsibility is 10 so, technically, only children below this age can cycle on pavements without fear of redress.

While adults are not allowed to cycle on 'footways' (see definition above), children up to the age of 16 cannot be prosecuted for doing so, see text above for clarification.

When using segregated cycle-paths ie signed footways shared with pedestrians, cyclists ought to keep to the side intended for cyclists.

CAN I CYCLE IN A PEDESTRIANISED ZONE?

[Also see the 'walkway' advice above]. If there is signage prohibiting cycling, **Thou Must Not Cycle**, but often signage is hidden away or missing. Zealous pedestrians often accost cyclists in pedestrian zones and ask them to cease and desist but, in the classic 'missing the mote in your own eye' way of the world, some pedestrians don't give a monkey's chuff about the vans making deliveries to shops in the self-same pedestrianised zones. If accosted, politely point this out, but don't always expect a sane answer.

If no local bye-law signage is apparent, the local authority may (or may not) explicitly allow cycling in pedestrian zones. As with all stronger-must-bend-before-the-weak situations, cyclists must give priority to pedestrians and must take the utmost care in areas where pedestrians hold sway. According to the **Department for**

Transport's Code of Conduct, cyclists need to weigh up whether there's a critical mass of pedestrians: "In pedestrianised areas, only ride your cycle if there aren't too many pedestrians about; otherwise dismount and push it."

'CARRY THAT BIKE!'

Don't fall for the piffle that you have to carry a bicycle when on a footway or pedestrian crossing. Anyone pushing a bicycle is a "foot-passenger" (*Crank v Brooks* [1980] RTR 441) and is not "riding" it (*Selby*). In his judgment in the Court of Appeal in *Crank v Brooks*, Waller LJ said: *"In my judgment a person who is walking across a pedestrian crossing pushing a bicycle, having started on the pavement on one side on her feet and not on the bicycle, and going across pushing the bicycle with both feet on the ground so to speak is clearly a 'foot passenger'. If for example she had been using it as a scooter by having one foot on the pedal and pushing herself along, she would not have been a 'foot passenger'. But the fact that she had the bicycle in her hand and was walking does not create any difference from a case where she is walking without a bicycle in her hand."*

'CAN YOU RIDE TANDEM?'

Cyclists are not allowed to carry passengers unless their cycles have been built or adapted to carry passengers. Cyclists must not hold on to a moving vehicle or trailer; ride in a dangerous, careless or inconsiderate manner; or ride when under the influence of drink or drugs, see below.

The police can prosecute cyclists who ride dangerously, carelessly, ignore traffic signs or signals, cycle on the pavement or commit any other road traffic offence. These offences carry maximum fines between £500 and £2,500. Also, £30 fixed penalty notices can be issued for cycling on the pavement, by police and community wardens.

However, if the footpath is wide, and you feel it would be safer - at, say a pinchpoint - to ride on a short stretch of pavement/footpath, you ought to do what is safe at that particular moment and place. Naturally, you would be in the wrong and an official could challenge you.

"YOU'VE LOST A WHEEL, MATE": UNICYCLING AND THE LAW

When it comes to the legal definition of a unicycle, there's been an unbalanced history. Up until 1994, a 'pedal cycle' was defined as "a bicycle, tricycle, or cycle having four or more wheels, not being in any case a motor vehicle." A unicycle was therefore deemed to be exempt from the laws applicable to bicycles.

In 1994 this all changed. Statutory Instrument 1994 No. 1519: The Traffic Signs Regulations and General Directions 1994 stated that a 'pedal cycle' was defined as "a unicycle, bicycle, tricycle, or cycle having four or more wheels, not being in any case mechanically propelled unless it is an electrically assisted pedal cycle of such class as is to be treated as not being a motor vehicle for the purposes of the 1984 Act."

This meant that unicycle riders had to follow the same rules as bicycle riders. They had to ride on the road, not footways. That is if they wanted to be squeaky clean and totally street legal. In practice, few unicyclists exercised their rights, and indeed, their obligations, to be on the road. And few police officers would have ticketed a unicyclist for "riding on a pavement." This was because there's a perception that unicycles probably don't fall under the same rules and regulations as bicycles (even though they did); and that, as potentially slow and unstable, unicycles should be on footways, not roads. Had a unicyclist caused a serious injury to a third party while riding on a footway, a lawyer could have argued that the law stated unicyclists must only ever ride on roads.

There is no English case law on this. However, there's some New Zealand case law and this could have been the way an English judge would have reacted also.

In *Morley V Police* (1995, High Court Christchurch) a unicyclist had the criminal case against him quashed. He had been charged with endangering a member of the public when he collided with a pedestrian on a footpath. This conviction - for 'absence of precaution or care' and 'reckless disregard for the safety of others' was overturned when a judge said a unicycle - when static - was not inherently dangerous.

In 2003, the UK definition of a 'pedal cycle' was changed. The **Pedal Bicycles (Safety) Regulations 2003 enacted by Statutory Instrument 2003 No. 1101**, state that "bicycle" - note, no longer 'pedal cycle', means a "two-wheeled vehicle that is propelled solely by the muscular energy of the person on that vehicle by means of pedals and has not been constructed or adapted for propulsion by mechanical power."

Unicycles are not defined. Everything is clear as mud again.

According to Mike Penton, editor of **Uni-The Unicycle Magazine**, unicyclists should tread carefully: "My personal opinion that a 26" or smaller would be too slow and dangerous on the road so could be ridden on the pavement, with caution. Unicyclists have been ticketed in London for riding on the pavement on a 29" wheel unicycles while commuting."

RED LIGHT RUNNING

A bike shop has an ongoing campaign to encourage law-abiding cycling. The **Stop at Red** campaign is organised by Cycle Heaven of York.

There's information [here](#) about access restrictions in the countryside.

LEGAL REQUIREMENTS FOR BIKES

The main law for bikes is currently *BS6102*, probably soon to be superseded by new CEN standards, but this is for retail use only ie bikes must meet those minimum standards at the point of sale.

Bikes ridden at night need front and rear lights, flashing or steady.

At night a bicycle must also be fitted with a red rear reflector (and amber pedal reflectors, if manufactured after 1/10/85).

At the point of sale (ie shops) bikes now have to come fitted with bells but there's no legal requirement for them to be fitted to bicycles no longer on shop display.

The **Highway Code** does not stipulate that bells must be used. It states: "Be considerate of other road users, particularly blind and partially sighted pedestrians. Let them know you are there when necessary, for example by ringing your bell."

Another 'audible warning device' is the human voice: a polite 'excuse me' can often come across as a lot less aggressive than the apparently insistent tinkling of a bell. However, 'angry of Tunbridge Wells' type letters to newspapers continue to insist that cyclists - from church-hopping old maids to downhill mountain-bikers - ought to use bells, despite the fact their use often scares the bejesus out of pedestrians.

On the Continent, the use of bells is more widespread and pedestrians do not leap out of their skin when they hear a bicycle bell behind them. Perhaps, in time, the use of bicycle bells in the UK will once again mean *cyclist approaching, please don't move to the side* rather than *oi, cyclist coming, get out of my way*.

There's a lot more info on bike standards and legal requirements - for instance on lights - by Chris Juden of the CTC [here](#).

HIGHWAY CODE

There are many 'do's' and 'don'ts' in **The Highway Code**. **It's important to note that cyclists have rights and responsibilities - not just rights...**

The 'must' rules in the Highway Code represent laws of the land and must be obeyed. Those rules which omit 'must' are advisable but not compulsory.

The *Road Traffic Act 1988* says: "A failure on the part of a person to observe any provision of The Highway Code shall not of itself render that person to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal and including proceedings for an offence under the *Traffic Acts, the Public Passenger Vehicles Act 1981* or *sections 18 to 23 of the Transport Act 1985*) be relied upon by any party to the proceedings as tending to establish or negative any liability which is in question in those proceedings."

Expert witness John Franklin, author of *Cyclecraft*, published by The Stationery Office, has three articles on cycling and the law [here](#).

Journalist John Stuart Clark doesn't believe cyclists get a fair hearing from police. Read his [contentious article](#).

CYCLING WHILE DRUNK

Cycling is intoxicating, it gives a natural high but it's also a very sociable activity and those who partake in the weekend 'pub run' will attest that cycling is easier after the odd drink or two.

A social tippie, imbibed in moderation - the proverbial swift half - will not lead to a massive impairment in your ability to ride home but, despite alcohol's pain reducing effect, it impairs athletic performance so too much booze is bad for biking.

The Licensing Act 1872 makes it an offence to be drunk in charge of a bicycle (or any other vehicle or carriage, or cattle) on a highway or in a public place but this old law also forbids any public drunkenness - even in a pub - so is clearly never enforced.

In law a bicycle is defined as a carriage for use on the highway but cyclists are not in charge of 'mechanically propelled' vehicles so, in law, do not have to adhere to exactly the same 'drink drive' rules as motorists.

Section 30 Road Traffic Act 1988 says: "It is an offence for a person to ride a cycle on a road or other public place when unfit to ride through drink or drugs - that is to say - is under the influence of a drink or a drug to such an extent as to be incapable of having proper control of the cycle.

In Scotland a PC may arrest without warrant a person committing an offence under this section. There is no obligation for a cyclist to submit to a blood or urine alcohol test.

'Road' in the above bit of legislation includes a bridleway so don't think you can get blotto at a country pub and ride home 'off road' without risk.

And here's the rub. If you ride drunk you risk endangering yourself and possibly others by your actions. Would you ride home blindfolded? Beer-goggles and bicycles do not mix. And, as stated above, cycling 'dangerously' can be fined by up to £2500.

You cannot get endorsements on your UK driving licence for a 'drink cycling' offence. Some US States have such a law so be careful when searching on this topic via Google.

The UK Highway Code - a useful but not a definitive source for UK legislation on motoring and cycling offences - says the penalty point system is "intended to deter drivers from following unsafe driving practices...The accumulation of penalty points acts as a warning to drivers that they risk disqualification if further offences are committed."

Note the word 'drivers.'

In law, cyclists propel vehicles on the highway and so have to adhere to the same rules as motorists. However, the fines and penalties for offences are different. Cyclists DO NOT qualify for three penalty points for failing to comply with a red light. Offending cyclists, when caught, are given a non-endorsable fixed penalty ticket for £30. There are no offences that carry penalty points for cyclists.

CYCLING FURIOUSLY?

It's an in-joke in cycling that cyclists can't be booked for speeding but can be fined for "pedalling furiously." Many cyclists list being cited for "cycling furiously" as one of their life ambitions. Professor David S. Wall, Head of the University of Leeds Law School, a professor of criminal justice lists his hobby as: **Cycling (Furiously)**

However, **these legal eagles** say they have been unable to find a reference to such a cycling offence in Blackstone's Criminal Practice or in Halsbury's Laws of England.

Which is odd, as Christopher McKenzie, an Australian barrister, pointed Bikeforall to these cases: *Taylor v. Goodwin (1879) 4 QBD 228*, a case where the Queen's Bench Division held, on appeal, that a cyclist was appropriately convicted by a magistrate for furious riding of a bicycle. The dicta of Justice Melor in the case has been cited and followed in a number of cases since: see, for example, *Smith v. Kynnersley [1903] 1 KB 788* (cyclist not liable to pay bridge toll) and *Corkery v. Carpenter [1951] 1 KB 102* (cyclist liable for offence where cycling drunk).

Although a legal eagle searching Blackstones will not find a specific offence of "furious cycling", cyclists can nonetheless be convicted for "wanton and furious driving".

The wording of S35 of the Offences Against the Person Act 1861 (as amended by the Criminal Justice Act 1948 (c. 58), s. 1(2)) is as follows:

"35. Drivers of carriages injuring persons by furious driving
Whosoever, having the charge of any carriage or vehicle, shall by wanton or furious driving or racing, or other wilful misconduct, or by wilful neglect, do or cause to be done any bodily harm to any person whatsoever, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years."

OBSTRUCTING MOTORISTS?

In August 2006, a new legal peril appeared. A district judge fined a cyclist for using a road in Telford when the cyclist could have used the less-direct, slower and dirtier cycle-path nearby.

The decision by the district judge didn't set an official precedent but could still have been used by some as "proof" that cyclists must use cycle lanes, not roads, a prospect that has long been challenged by the **CTC** and other cycle campaign groups. As widely expected, the Telford decision was overturned (in February 2007).

According to **this advice** issued by the Department of Transport, cyclists likely to be riding 18mph or faster should use roads not cycle-paths.

There's a specialist charity that champions the rights of cyclists in court cases: the **Cyclists' Defence Fund**. This body is always in need of expert help and funds.

"BLOODY CYCLISTS, THEY SHOULD PAY ROAD TAX!"

The majority of adult cyclists own cars. Hence they pay Vehicle Excise Duty, known, inaccurately, as 'road tax'. Winston Churchill started to abolish this tax in 1926. He didn't want motorists to think a token payment gave them "ownership" of the road. It was an ex-tax by 1937. Road tax doesn't pay for the roads anyway, general and local taxation does that so even those cyclists without cars still pay for roads. The Road Fund (1910-37) only ever paid for the maintenance of a few 'national' roads, never local ones. Paying VED gives no "right to the road" for motorists (or car-owning cyclists). There's much more on this subject on **iPayRoadTax.com**, a campaign to put the record straight on 'road tax'.

CYCLING WHILE TALKING ON A MOBILE PHONE

A bicycle is a vehicle but according to the Road Vehicles

(Construction and Use) Regulations 1986, amended 2003, it is only illegal to drive a *motor* vehicle while using a mobile phone. There is nothing about bicycles in the phrasing so, in effect, cyclists are exempt from this extremely sensible law.

That doesn't mean cycling while phoning or texting is not dangerous and you could be pulled over for a related, not-paying-due-care-and-attention offence.

LANE SPLITTING

In some US States, so called 'lane splitting' by cyclists is illegal. Lane splitting is where a cyclist under- or over-takes in a stream of traffic.

In Australia and in the UK, lane splitting is legal, although requires rapt attention because motorists can switch lanes suddenly. Many motorists fail to look out for cyclists when switching lanes but it's also important for cyclists to recognise that they may be riding in a motorist's 'blind' zone.

According to **CTC's Roger Geffen**, there used to be an element of doubt about whether or not lane splitting was contrary to the UK Highway Code and hence whether cyclists who did it could potentially be prosecuted for a general offence such as "careless" or "inconsiderate" cycling. But this has now been cleared up in the latest version of the Highway Code.

The old Highway Code (1998 version) had two rules which, in different ways, told drivers not to change lanes to overtake on the left. The old Rule 129 (which was about driving in slow-moving traffic) said:

129. You should

- not change lanes to the left to overtake

And old rule 139 (which was about overtaking) said:

139. Overtake only when it is safe to do so. You should

- only overtake on the left if the vehicle in front is signalling to turn right, and there is room to do so
- stay in your lane if traffic is moving slowly in queues. If the queue on your right is moving more slowly than you are, you may pass on the left

The problem was that it was never really clear how this last bullet-point applied to a cyclist. The traffic on his/her right might be moving more slowly, but the cyclist him/herself wouldn't be moving slowly in a queue, nor was there a lane that they should stay in (unless there was a marked cycle lane).

The new Highway Code has cleared up the uncertainty. Old rule 129 has been replaced by new rule 151, which has a new bullet-point on

the end:

151 In slow-moving traffic. You should

- [...]

- be aware of cyclists and motorcyclists who may be passing on either side

So cyclists and motorcyclists overtaking slow-moving traffic on either the left or the right can now say that this is sanctioned by the Highway Code, as it alerts drivers to both possibilities.