



**National Road
Victim Service**

When someone dies in a road crash

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

Get in touch for help

0808 8000 401

help@brake.org.uk

www.brake.org.uk/support

Funded by



**TRANSPORT
SCOTLAND**
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When someone dies in a road crash

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

This guide aims to help if:

- someone close to you has been killed in a road crash, or
- you are helping someone who has been bereaved.

Who writes this guide?

This guide is written by the charity Brake. Brake runs a free, specialist support service for road victims called the National Road Victim Service. We are an independent service working in partnership with other services to care for your needs.

We offer emotional support and practical help and advice. We also help people seriously injured in road crashes.

Get in touch for help

call: 0808 8000 401

email: help@brake.org.uk

info: www.brake.org.uk/support

Who is this guided funded by?

This guide is funded by Transport Scotland.



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How to use this guide

You can use the contents on the previous pages to find out what this guide contains and go to the pages you need to read.

If the crash happened very recently, **Section 1: What happens now?** may be the most useful part to read first. This section gives information and advice on things that often happen in the first few days after a fatal crash.

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

If you don't feel able to read this guide yourself, you can ask someone else to read it for you.

If you need extra copies of this guide for others, call Brake's National Road Victim Service on 0808 8000 401 or email help@brake.org.uk.

The online version of this guide

This guide is available online at brake.org.uk/support-literature.

You can download the complete guide as a pdf or read the web pages online.

The online version contains hyperlinks to the websites referred to in this guide.

If you do not have access to the internet, call Brake's National Road Victim Service on 0800 8000 401 to get the help you need.

Brake produces other free guides that may be useful to you:

- Someone has died in a road crash (support book for children and their carers)
- When someone dies in a road crash: Information and advice for bereaved families and friends following death on the road in England or Wales
- Information and advice for bereaved families and friends following death on the road in Northern Ireland
- Serious injury in a road crash: Help and information for victims, and their family and friends

These guides are online at www.brake.org.uk/support-literature.

If you need a copy of any of these guides, call Brake's National Road Victim Service on 0808 8000 401 or email help@brake.org.uk.

Looking after your own needs

Coping after a sudden and shocking bereavement can be very challenging. You, or others, may be suffering from significant shock and distress, and experiencing a range of emotions and reactions. Different people react in different ways at different times. You may feel exhausted.

It is important to look after your emotional and physical welfare, and, if you are part of a family, look after each other too. Remember to:

- eat regularly, and drink water or have comforting hot drinks
- stay warm, and get sleep when you can
- seek support, and support each other.

If you were also in the crash, and have injuries, it is important they are treated too. Make sure you receive any medical attention you need.



The yellow book inside the front cover of this guide provides advice on coping after such a terrible bereavement.

If you need extra copies of this book for others, call Brake's National Road Victim Service on 0808 8000 401 or email help@brake.org.uk.

Help for children and families

If a child or young person has also been bereaved in a road crash, it is important to provide the love and support they need.

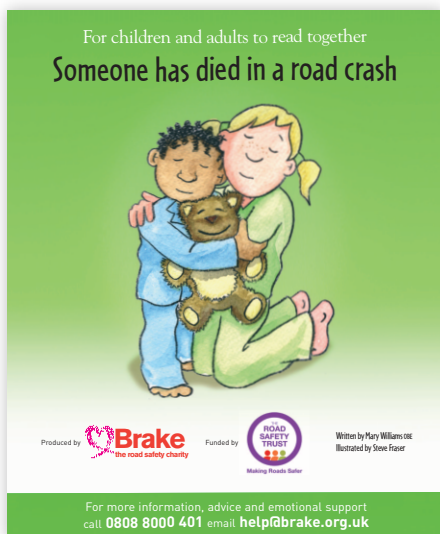
Children's needs are often the same as adults' needs. They need to feel safe, supported, calm, informed and involved. Make sure they are surrounded by familiar adults, who they know and trust. Try to keep to their usual routines if you can. For example, children can go to school if they want to.

Give children honest, short answers, using language they know and can understand easily.

Try not to give too much information at once. Give them a chance to ask questions.

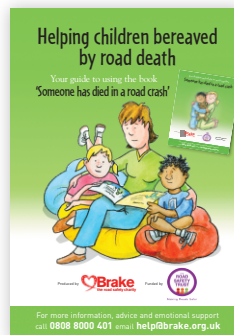
If you need emotional support for parents, children or young people, or help with arranging care for children, or any other issue affecting a family, contact Brake's National Road Victim Service.

We can put you in touch with specialist organisations that help care for families.



We can also send a support book for children and their adult carers.

Call 0808 8000 401 or email help@brake.org.uk.



Your right to support

Help from the police

You should be offered help from a police officer with special training in helping families.

If you have not been offered help from a specially trained police officer, ask if this is possible.

Your police contact can:

- help with immediate things, such as seeing a loved one's body or informing other people about the crash who need to know, such as other family members (see page 37)
- give you basic details about what has happened, that may be needed by a solicitor (see page 42) or a motor insurer (see page 36)
- return to you any personal items found in a vehicle or at the place where the crash happened (see page 30)
- tell you the location of a vehicle you own, if it was involved and they are examining it (see page 34)
- keep you informed about the progress of their investigation and whether anyone has been arrested or is on bail (although they will not be able to discuss evidence with you) (see page 53)
- put you in touch with the Crown Office and Procurator Fiscal Service (COPFS), if it is decided to prosecute somebody for a crime, or if it is decided not to (see page 60).

Your police contact may also be able to help you:

- visit the scene of the crash, if you were not in the crash and want to go
- manage media interest in your case
- get information and support later on, for example if there is a court case.

The police have produced guidelines for supporting families bereaved by road crashes that they should follow. You can read these guidelines at www.brake.org.uk/codes-and-standards.

See page 53 for more information on the police investigation and criminal prosecutions.

Your right to support

Help for victims of crime

If the Procurator Fiscal is considering criminal charges or investigating the death, you will be offered help from a Victim Information and Advice (VIA) officer from the Crown Office and Procurator Fiscal Service (COPFS), if you are the nearest relative of a person who died.

Your VIA contact can:

- give you information about your case
- help you contact other support agencies, if this is what you want. For more information about how your VIA contact can help you, see page 61.

Victims' Code for Scotland

The police, prosecution agencies, and courts are required to meet certain standards that aim to help victims of crime.

These standards are written into a government document called 'The Victims' Code for Scotland'.

The Victims' Code for Scotland says that as a victim of crime you have the right to:

- have fair and equal access to services offered by criminal justice agencies
- be offered help in a professional manner, without discrimination of any kind
- be offered additional help if needed so that you and your family can access information and support services.

You also have the right to:

- be able to obtain information about what is happening in the investigation or proceedings, where it is appropriate and relevant
- be able to understand information you are given and be understood in any information you provide
- have your needs taken into consideration
- where appropriate, be able to participate effectively in the investigation and proceedings
- have access to appropriate support during and after the investigation and proceedings
- be protected from further victimisation, intimidation and retaliation during and after the investigation and proceedings.

If you are a victim under the age of 18 years, you have the right to have your best interests considered, taking into account your age, maturity, views, needs and concerns.

If, in your case, it is possible that someone may be charged with a crime, the Victims' Code for Scotland is there to help you.

**You can read The Victims' Code for Scotland at www.brake.org.uk/codes-and-standards.
An easy-read version is also available.**

For more information about support for victims of crime, go to www.mygov.scot/victim-witness-support.

Important contacts

Your contacts

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

Your National Road Victim Service caseworker

Contact Brake's National Road Victim Service to be assigned a caseworker to help you with emotional support and practical needs. Call [0808 8000 401](tel:08088000401) or email help@brake.org.uk.

Name

Phone

Email

Your police contact(s)

Police contact name

Station phone number

Mobile number

Times they can be contacted

Email

Notes

Police officer in charge of the investigation

(Senior Investigating Officer)

Name

Phone

Email.....

Crown Office and Procurator Fiscal contact

(see page 59 in Section 3: Criminal investigation and charges)

Name

Phone

Email.....

Victim Information and Advice officer

(see page 61 in Section 3: Criminal investigation and charges)

Name

Phone

Email.....

Hospital or mortuary staff

Name

Phone

Email.....

Funeral organiser

Name

Phone

Email.....

Solicitor helping you with a compensation claim

(see page 96 in Section 5: Can I claim compensation?)

Name

Phone

Email

Charities and other organisations helping you

(see Section 6: Useful organisations)

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Health professionals helping you (for information on how to obtain this help, call the National Road Victim Service on 0808 8000 401 or email help@brake.org.uk)

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Organisation

Name

Phone

Email

Website

Faith or spiritual leader

Name

Phone

Email

You can 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.

It's also helpful to keep copies of any letters or documents you receive in a safe place.

Handwriting practice lines consisting of 20 horizontal dotted lines.

Handwriting practice lines consisting of 25 horizontal dotted lines.

Handwriting practice lines consisting of 20 sets of three horizontal dotted lines.

Handwriting practice lines consisting of 20 horizontal dotted lines.

SECTION 1

What happens now?

What happens now?

Information and advice on things that often happen in the first few days after a fatal crash

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What happens to a loved one’s body

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Organ and tissue donation

Organ donation is only possible if a person has died in hospital, and in specific circumstances.

Tissue donation may be possible whether a person has died in hospital or not. It can happen up to 24 or even 48 hours afterwards. Tissue that can be donated includes skin, bone, heart valves and corneas.

The opt-out system

Scotland operates an opt-out system for organ and tissue donation. This means that someone is considered to have agreed to be a donor when they die, unless they have recorded a decision not to donate or are in an excluded group. Families are always consulted before donation goes ahead.

If medical staff confirm that donation could be possible, a specialist nurse will talk to the family, to tell them what might happen and discuss whether they support the decision. The faith and beliefs of the person who died will always be respected. Organs and tissue are removed with care and do not delay burial or cremation arrangements or affect your ability to see a body. Only those organs and tissue specified by the donor and agreed with the family will be removed.

Donating children's organs and tissue

The opt-out system does not apply to children under the age of 16. If a decision about organ or tissue donation is required for someone under 16, the family will be asked to make that decision.

If you want to find out if donation is possible, but haven't been contacted by medical staff, you need to act quickly (usually within 24 hours, although sometimes up to 48 hours, after the death).

For organ donation call 0300 123 23 23.

For tissue donation call 0800 432 0559.

For more information, go to www.organdonation.scot.

This section includes information about seeing your loved one's body and what happens in a post mortem. This may be difficult to read. If you don't feel ready to read this information yourself, you can ask someone else to read it for you and help you understand what will happen.

Seeing a loved one's body

After someone dies suddenly or unexpectedly, 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, you can ask your police contact 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 bereavement officer or hospital chaplain who can support you. 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 the 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 through an internal glass window (at the mortuary), or by photograph or by video recording.

Sometimes a body is harder to identify because it is so badly injured. In this case, police may ask you to help identify a loved one through dental records or by providing a sample of their DNA (for example, from a hairbrush or toothbrush).

What happens at a post mortem?

After someone dies on the road, there is likely to be an examination of their body. This is usually called a post mortem.

A post mortem is a medical examination to help find out the cause of death. It includes examination of body organs, tissues and fluids, and is carried out by a specialist doctor called a pathologist.

A post mortem examination is carried out on behalf of the Procurator Fiscal, the official who investigates all sudden deaths (see page 59 in Section 3: Criminal investigation and charges).

Usually the Procurator Fiscal asks the pathologist to open and examine inside the body. The body is then closed again. This is called an invasive post mortem. Sometimes a post mortem is limited to certain areas of the body, for example the head or chest.

Some people have objections, for faith or other reasons, to an invasive post mortem. 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 consider your views. A post mortem may still be required.

A post mortem may include 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 they contain any toxic substances, such as alcohol or drugs.

Your police contact can tell you how to get in touch with the Procurator Fiscal. You can write their contact details on page 12.

You cannot attend a post mortem yourself but your police contact or the Prosecutor Fiscal should tell you when and where the post mortem is taking place.

More information about post mortems and the role of the Procurator Fiscal in investigating deaths is explained in a booklet called 'Information for bereaved relatives'. You can read this booklet at www.brake.org.uk/codes-and-standards. An easy-read version is also available.

Organ or tissue samples

Some post mortems 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 so they can be examined under a microscope. These slides help confirm the cause of death. Taking tissue samples does not disfigure a body.

A pathologist may need to retain an organ temporarily so they can examine it closely. The Procurator Fiscal will tell you if this is going to happen.

After the post mortem you can decide if any tissue or organs should be returned to the body, although this may mean you have to delay a burial or cremation.

If you want to proceed with a burial or cremation earlier, you can ask for any retained tissue or organs to be disposed of by the pathologist in a respectful way, or stored for future use, including research, education or training. This requires the agreement of the person who died (if they were an adult), or their nearest relative.

You can ask the Procurator Fiscal or the pathologist to provide more information about your case.

You can get more information about what happens with organ and tissue samples from the Human Tissue Authority's website at www.hta.gov.uk.

The law on organ and tissue retention is explained in the Human Tissue (Scotland) Act 2006. You can read this booklet at www.brake.org.uk/codes-and-standards.

The post mortem report

The pathologist who carries out the post mortem will send a short report to the Procurator Fiscal explaining what they have found. This report will explain what the pathologist did, any tissue and organs that were retained and why, and any further tests which are being carried out.

Once all the tests have been carried out the pathologist will send the Procurator Fiscal a full report.

You can ask the Procurator Fiscal for a copy of the post mortem report, if you want to see it.

You may or may not want to see the post mortem report. The Procurator Fiscal can arrange for it to be sent to your GP who can help explain it. If a loved one died before emergency services reached them, the pathologist who carried out the post mortem may also be able to give you information, if you want to know, about your loved one's death.

Sometimes, you cannot see a copy of the post mortem report until after any criminal investigations have finished.

The post mortem report forms part of the evidence that the Procurator Fiscal will consider as part of their investigation (see page 90 in Section 4: Court cases). If there is a Fatal Accident Inquiry, the post mortem report will form part of the evidence. The pathologist is responsible for the final decision on the cause of death.

Sometimes it takes a long time for the full post mortem report to be written. The Procurator Fiscal should tell you if there will be a delay.

If you disagree with the post mortem report, you should tell the Procurator Fiscal.

Second post mortems

Very rarely, a second post-mortem examination may be carried out, if someone is charged with a crime in connection with the death, or if a criminal investigation is ongoing in relation to the circumstances of the death. This is often called a 'defence post mortem' as it is requested on behalf of the person accused of the crime. The Procurator Fiscal or your police contact will tell you if this is going to happen.

Delays to a burial or cremation

A burial or cremation can only take place once the Procurator Fiscal has given permission for the body to be released. To find out how long a post mortem will take, or if you have objections to a burial or cremation being delayed, talk to your police contact or the Procurator Fiscal.

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. You may decide that you want to have all, some or none of them returned. If you are using a funeral director, you can ask them to collect any personal belongings for you when they collect the body.

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 may be very badly damaged and you may want them cleaned or not returned at all. The police may or may not charge you a fee for any cleaning you want them to do.

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, and ask for these to be returned to you.

Sometimes belongings are kept temporarily by the police because the police need them as part of their investigation. Once the police investigation and any resulting criminal prosecution are finished, these belongings can be returned if you want them. Belongings should not be disposed of by police, medical or mortuary staff without your consent.

The Police and 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'. You can read this guidance at www.brake.org.uk/codes-and-standards.

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 in an odour-free, zip-locked bag.

Visiting the crash site

If you were not in the crash, you may or may not want to visit the place where 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 place flowers or something else at the crash site. For information on roadside memorials, see page 50 in Section 2: Practical issues.

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 a loved one said anything or was 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. The Patient Advice and Support Service (PASS) can help you do this. Alternatively, your police contact may be able to find out about treatment given and explain it to you.

If you are the next of kin, you can get a copy of the medical report prepared by the hospital on treatment given. This can be requested by you or your solicitor, and there may be a fee. This report may use unfamiliar medical terms, so you may want to ask a hospital doctor or your GP to explain it to you. You may not be able to get full details of treatment until after the Procurator Fiscal's investigations into the death are finished.

To find out more about the Patient Advice and Support Service (PASS), go to www.pass-scotland.org.uk.

If you have a concern that a hospital treated your loved one inadequately, you may wish to consult a solicitor (see page 96 in Section 5: Can I claim compensation?). In some cases, you may be able to claim compensation for medical negligence. The charity AvMA (action against medical accidents) can also offer free advice if you are concerned a loved one has suffered injury following medical care. To find out more, go to www.avma.org.uk.

Why did the crash happen?

It is common to want to know straight away what happened in a crash and who was involved.

The police will carry out an investigation into the crash and collect evidence on behalf of the Procurator Fiscal. If it appears that someone may have committed an offence, they may be charged. You can ask your police contact questions and seek information from them at any time during the investigation. (See Section 3: Criminal investigation and charges.)

If a solicitor is working on your behalf to find out if you can claim compensation, they will 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. (See Section 5: Can I claim compensation?)

In some cases, for legal reasons, some information may not be released until after an investigation or a prosecution has happened.

Guidelines for when information about a road crash can be released are written into a Crown Office and Procurator Fiscal document called 'Access to Information Protocol'. You can read this guidance at www.brake.org.uk/codes-and-standards.

What happens to a vehicle involved in the crash?

If a person who died was in a vehicle or on a motorbike or bicycle, it may be taken away for examination by the police, along with any other vehicles involved in the crash. The police examine vehicles involved in fatal crashes to find out if there were mechanical defects, and to get more information about what happened in the crash.

Vehicles may 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 stored 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 think this is necessary. If you wish to do this, tell your police contact. For a list of crash investigators, go to www.itai.org.

For more information about the police investigation, see Section 3: Criminal investigation and charges

If you need help with practical challenges or emotional support, Brake's National Road Victim Service is here for you. Call 0808 8000 401, email help@brake.org.uk or go to www.brake.org.uk/support.

SECTION 2

Practical issues

Practical issues

Information and advice on practical issues that often come up after a road crash

Informing people

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Registering a death

Registering a death is a legal requirement to tell the government that a person has died. A death that occurs in Scotland must be registered within eight days.

If the Procurator Fiscal decides to investigate the death, they will tell you when and how the death will be registered.

A death can be registered at any registration office in Scotland. You will need to make an appointment and may need to take some documents with you. The registration office will tell you what documents you need to take. You can find details of a registration office on your local council's website. Your police contact, a doctor, or funeral director can also help you find a registration office.

After a death has been registered, you will be given the following documents, for free.

- Certificate of Registration of Death (Form 14), to give to a funeral director, if you are using one.
- An abbreviated death certificate, which shows the person's name, date and place of death.

You can buy a full death certificate for £10, if purchased within one month of the death being registered. This is a certified extract from the Register of Deaths and you may need this to tell some organisations about the death. It's a good idea to buy as many copies as you think you will need.

If the person who has died was claiming state pension or other benefits, you can use the 'Tell Us Once' service to tell different government departments about the death (see page 37).

You may be able to register the death by phone instead of going to a registration office in person. The registration office will tell you if this is possible.

A booklet called 'What to do after a death in Scotland: Practical advice for times of bereavement', provides more information on registering a death. You can read this booklet at www.brake.org.uk/codes-and-standards.

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 insurer that they have died. The police can give you basic details that the 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.

The motor insurer may offer you a solicitor to help you find out if you can make a claim for compensation. It is up to you whether you choose this solicitor or a different solicitor.

Whether or not a person who died was driving, 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.

You may be contacted by the motor insurer for other people involved in the crash. They may offer 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.

For more information about compensation claims and important advice about choosing a solicitor, see Section 5: Can I claim compensation?

Telling others

There may be people other than relatives and friends who need to be told 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 some holiday; some employers and trade unions also have funds that provide support to families of employees who have died)
- school, college or nursery (teachers can provide valuable support)
- doctor (your GP)
- life insurance and pension companies (the sooner you tell them, the sooner you may be able to make a claim from any plans)
- bank or building society
- mortgage or loan provider
- landlord
- housing department or housing association (if a person who died was living in social housing)
- utility providers (for example, gas, electricity and phone), particularly if a person who died lived alone
- benefit providers (see page 43)
- 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.

The 'Tell Us Once' service can report a death to other government organisations on your behalf, so you don't have to inform lots of different people. When you register a death, the registration office should tell you whether the service is available in your area and give you a unique reference number that you will need to use the service.

To find out if the Tell Us Once service is available in your area, you can go to your local authority website, speak to the Procurator Fiscal's office, or go to www.mygov.scot and search for 'Tell Us Once'.

Arranging a burial or cremation

Burial or cremation can take place once the Procurator Fiscal has given permission for the body to be released (see page 29 in Section 1: What happens now?).

Arrangements for a loved one's body to be buried or cremated, and arrangements for any funeral service or gathering in their memory, are usually overseen by a close relative or group of relatives or friends.

If you are the person making arrangements, or involved in making arrangements, consider any instructions that the person who died left in a will (see page 43) or elsewhere, or told anyone. If the person who died followed a religion, there may be religious practices to follow.

People often have different or strong views on what should be done. Discussing options together with other family members, or other people who were close to the person who died, and sharing tasks, can help. Alternatively, you may choose to let someone else make decisions.

As long as a legal method is chosen, no-one should push you to make arrangements for a burial or cremation that you are not comfortable with.

This means that no one else (for example a faith leader, or a funeral director, or friends) has the right to decide the details.

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 use a funeral director to help arrange a burial or cremation. A funeral director may offer a range of services including:

- looking after a loved one's body before a burial or cremation
- arranging for you to view a loved one's body
- providing a choice of coffins, shrouds or urns to buy
- liaising with the burial ground or crematorium on your behalf
- organising a funeral ceremony
- transporting a loved one's body.

Some people choose to use a funeral director only for certain things, such as looking after the body, or helping with the paperwork that needs to be completed after a death.

If you want to compare prices and services of funeral directors in your area, you can use one of these websites:

- www.funeral-directory.co.uk
- www.yourfuneralchoice.com
- www.beyond.life

If you decide to use a funeral director, you may want to choose one who is a member of an association and follows a code of practice. For a list of associations of funeral directors, go to www.brake.org.uk/orgs or see Section 6: Useful organisations.

Some people choose not to use a funeral director because they want to manage arrangements themselves. 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 a 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.

Ashes

If your 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. You will need to get permission from any landowner before making arrangements to scatter or bury ashes.

Coffins and shrouds

Bodies can be placed in coffins made from a range of materials, including cardboard. 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 materials that can be used to make coffins and wrap bodies. Your funeral director, if you are using one, should be able to give you advice about coffins and shrouds.

The Natural Death Centre can give you advice about natural burials, coffins and shrouds. They can also give advice about direct funerals and cremations (see page 41). Go to www.naturaldeath.org.uk or call **01962 712 690**.

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 receive certain benefits. (Ask your local benefits office as soon as possible whether the government can help you pay, or go to www.mygov.scot and search for 'Funeral Support Payment')
- 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 burial or cremation through a payment plan. Some credit union accounts also make a payment towards funeral costs when the account holder dies. (Some payment plans may only pay for the use of a particular funeral director).

If you aren't eligible for help paying funeral costs, 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 and you are making a claim for compensation (see next page).

Direct funerals or cremations

One way to reduce the cost of a funeral is a burial or cremation without any mourners present. This is sometimes called a 'direct' funeral or cremation. 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 ceremony, but hold it on a different day, later on.

You can ask your funeral director if they offer direct burials or cremations. They should also be able to advise you on other ways to lower the cost of a burial or cremation.

A direct cremation can also be arranged without a funeral director although you will need to make arrangements to transport the body yourself. You can ask a crematorium about how to arrange a direct cremation.

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 and your family on whether you can claim compensation. Sometimes a lot of money can be claimed, so it is important to find out. If you are entitled to make a claim, a personal injury solicitor can work with you to pursue a claim.

You may also need advice from a solicitor specialising in wills (see next page). Depending on your circumstances, you may also need specialist advice regarding issues around a Fatal Accident Inquiry, a post mortem, 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.

For advice on contacting a solicitor specialising in road death and personal injury claims, see Section 5: Can I claim compensation?

For more information on finding an expert solicitor that can help you, go to www.brake.org.uk/legal.

Wills

If you are the next of kin of an adult who has 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 or visit www.ros.gov.uk to find out.

A will appoints a person or people (known as an executor) to administer a dead person's estate (everything they owned). It also gives instructions on what should happen to their possessions and money after their death, and may also include instructions about what sort of funeral they would like, and whether they would prefer a burial or cremation.

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 on what you need to do. The Law Society of Scotland provides details of solicitors who specialise in different areas of law, including wills. Go to www.lawscot.org.uk or email lawscot@lawscot.org.uk.

If you need advice about a will but cannot afford a solicitor, your local law centre can provide a free and independent legal service. To find details of a law centre near you, go to scotland.shelter.org.uk and search 'law centres'.

Benefits

Some people qualify for benefits after being bereaved. You may be able to claim benefits for all sorts of reasons, for example if a partner has died, or you are bringing up children on a low income.

If a person who died was claiming benefits or a state retirement pension, or you were receiving benefits for them, you need to tell their benefits office about the death.

To find out if you can claim any benefits, go to mygov.scot and search for 'bereavement benefits' or call the Department for Work and Pensions Bereavement Service on 0800 731 0469. For free advice from Citizens Advice Scotland, go to www.cas.org.uk.

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.

- StepChange Debt Charity
call 0800 138 1111 or go to www.stepchange.org
- National Debtline
call 0808 808 4000 or go to www.nationaldebtline.org
- Citizens Advice Scotland
go to www.cas.org.uk
- MoneyHelper
call 0800 138 7777 or go to www.moneyhelper.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 Section 5: Can I claim compensation?).

The Death Notification Service is a free service that allows you to notify a number of banks and building societies about a person's death, at the same time. To find out more, call 0333 207 6574 or go to www.deathnotificationsservice.co.uk.

Stopping unwanted mail

You may find it upsetting to receive junk 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 register with The Bereavement Register by completing the form inserted in the cover of this pack.

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

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

You may have to re-register with these services every few years.

Registering with these 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 wellbeing, you may choose to avoid sites which could contain insensitive posts or incorrect information, and only visit places on the internet where you feel safe, and supported, and can trust what you are reading.

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

Your case in the media

Journalists from newspapers, or 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 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 call, email or write to journalists. Your solicitor (see page 42) or the police (see next page) may be able to help you liaise with journalists.

Ask your police contact or your solicitor 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 criminal trial 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 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.

Police best practice is to help you develop a ‘media strategy’ that takes into account your views on media coverage.

Choosing a photo or video

When choosing a photo or 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. This is a personal choice. If you are doing this, 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.

If you would like a photo to be used on just one occasion, you should agree this with the journalist who contacts you, before the photo is used, and you should get a record of this agreement. You can ask the journalist to email you about how the photo will be used or you can ask if you can record their verbal agreement on your mobile phone.

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 videos to the media in case they lose them. It is better to give a digital copy, if you can.

Being interviewed by a journalist

Being interviewed by a journalist can be hard, particularly if they are a stranger and they want you to talk about how you feel. It can 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 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, if you would prefer, ask for the interview to 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 news outlet, following their published complaints procedure. Sometimes the media offers to print or broadcast an apology. A newspaper or magazine may offer to print a letter from you.

Media outlets often sign up to codes of practice that require them to respect the privacy and feelings of victims. To read these codes, go to www.brake.org.uk/codes-and-standards.

If you feel you are being harassed by a journalist, call the Independent Press Standards Organisation (IPSO) helpline: 0300 123 22 20 (9am to 5.30pm) or 07799 903 929 (out of hours).

To make a complaint about broadcasting, go to www.ofcom.org.uk or call 0300 123 3333.

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 roadside memorials, and some may limit the length of time that flowers can be placed at the site of a crash. Memorials are not allowed on motorways.

If you want to seek permission for a roadside memorial, you need to talk to the roads 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. Brake's National Road Victim Service 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 collect them after a period of time and give them to you.

The charity RoadPeace can provide a small plaque to use as a roadside memorial in memory of a loved one who has died. To order a plaque, email info@roadpeace.org or go to www.roadpeace.org.

Website memorials

Some people bereaved in road crashes decide to have a website in memory of a person who died, where they publish memories, poems, songs, messages, pictures or videos. There are several organisations that provide this service, including ones that are free or low cost. You can ask a funeral director for more information.

Brake's National Road Victim Service can also put you in touch with these services, call 0808 8000 401 or email help@brake.org.uk.

You can find more information about memorialising and other ways to honour a loved one's memory at www.brake.org.uk/memories.

Some people bereaved by a road crash wish to campaign for road safety. For a list of organisations that can help you do this, see Section 6: Useful organisations.

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.

Brake's National Road Victim Service works with the Foreign, Commonwealth and Development Office (FCDO) 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 FCDO, you should have been offered support from the National Road Victim Service. If not, you can call the National Road Victim Service on **0808 8000 401** (Monday–Friday, 10am–4pm) or email help@brake.org.uk.

You can also ask for support from FCDO Consular staff based at British Embassies, High Commissions and Consulates overseas, and in London in the Consular Directorate of the FCDO.

Consular staff 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
- provide you with details of local lawyers, interpreters and funeral directors.

Consular staff cannot investigate deaths abroad nor give legal advice. If you have concerns about legal issues, a solicitor with experience of dealing with deaths abroad can advise you (see page 42).

Foreign, Commonwealth & Development Office (FCDO) guidance explains what support is available to family and friends if a loved one died abroad. To get this guidance online, go to www.gov.uk and search for 'coping with death abroad'.

If someone has died abroad and you want to bring the body back to Scotland for a burial or cremation, you will need to obtain a death certificate (or equivalent) and get permission to move the body out of the country where they died. For more information, go to www.mygov.scot/death-abroad.

You will also need to get permission from the Death Certification Review Service for the burial or cremation to take place in Scotland.

To contact the Death Certification Review Service, call **0300 123 1898** or email his.dcrs@nhs.scot.

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.

You can contact the FCDO for help and advice from anywhere in the world by calling **0207 008 5000** or go to www.gov.uk and search 'FCDO'. To find your nearest British embassy, High Commission or Consulate, go to www.gov.uk/world/embassies.

If you need help with practical challenges or emotional support, Brake's National Road Victim Service is here for you. Call **0808 8000 401**, email help@brake.org.uk or go to www.brake.org.uk/support.

SECTION 3

Criminal investigation and charges

Criminal investigations and charges

Information and advice on criminal procedures after a fatal crash

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The police investigation

A death on the road is investigated by the police on behalf of the Procurator Fiscal (see page 59).

The police have a duty to try to find out what happened by gathering evidence which they submit to the Procurator Fiscal. A police investigation can take a long time. How long it takes will depend on your case.

You can contact the police to find out how an investigation is progressing and how long it will last. You can also ask the police to explain the procedures involved in the investigation.

If the police decide to stop an investigation, you can ask why this has happened. This is written into a Crown Office and Procurator Fiscal document called 'Access to Information Protocol'. You can read this guidance at www.brake.org.uk/codes-and-standards.

Evidence from people

People involved in the crash can be tested for alcohol, drugs and have their eyesight checked. This includes testing injured drivers if permission is given by medical staff caring for them.

The police may seek other medical evidence to help show what has happened. Medical evidence may be provided by staff who treated a loved one at the crash site or in hospital, and by the pathologist who did the post mortem (see page 26 in Section 1: What happens now?).

People involved in the crash, or who witnessed the crash or events leading up to or after the crash, may be asked to give a statement (see next page). They may also be asked to give the police their mobile phones.

If there are not enough witnesses, police may issue an appeal for witnesses, through the media or through notices at the scene.

Giving a statement

The police may take statements from 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.

If you give a statement, the police will write down and record what you say. If you give a statement, a lawyer, or more than one lawyer, may want to interview you too. This is an essential part of the investigation and helps lawyers understand the evidence you are providing.

Your contact details remain confidential. They cannot be given to someone accused of a crime.

It may be possible for a relative or friend to attend an interview with you to offer support. If you want to be accompanied ask if this is possible. If you need help with communicating, you may also be entitled to assistance from an interpreter or intermediary (someone who helps communicate questions the police ask, and your answers).

You may also be asked to attend a precognition interview (see page 62).

You may also be given the opportunity to make a victim statement (see page 63).

If you give a statement, you may or may not be required, at a later date, to give evidence in court. For information about giving evidence in court and support to help you do this, see Section 4: Court cases.

Evidence from vehicles

Collision investigation officers, who are specially trained police officers, or employees of other agencies working in partnership with the police, may remove and examine vehicles to:

- find out if they are mechanically defective
- get more information about what happened, by studying vehicle damage or vehicle electronic data, for example a vehicle's speed and braking, or how long it was driven for.

Cameras attached to a vehicle that were pointing at the driver, or the road, may provide vital information. Cameras are also used by some cyclists.

If a lorry, bus or coach was involved, then a vehicle examiner with particular expertise in studying commercial vehicles should carry out the vehicle examination. They may look at brakes and other potential major faults, and any driving records (showing when a driver took breaks and how long for).

Evidence from the scene

Collision investigation officers can photograph, video and measure the crash location, at the time of the crash and sometimes later too.

They record things like vehicle position in the crash, skid marks on the road, and damage to objects, such as bollards. They also analyse any available footage from street cameras (CCTV).

If the crash involved someone driving for work

If the crash involved someone driving for work, the police or other agencies may need to investigate their employer, to find out if there was any failure by the employer to ensure a vehicle was safe or driven safely. They may need to interview people or seize paperwork.

The Health and Safety Executive (HSE) may get involved in the investigation. HSE inspectors usually only get involved if the police identify that serious management failures contributed significantly to the crash or if machinery that was part of the vehicle was at fault. 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 role of the Health and Safety Executive in investigating road crashes, go to www.hse.gov.uk/roadsafety and click on 'the law and how it is regulated'.

A Fatal Accident Inquiry (FAI) will normally be held if a road death was the result of an accident that happened in Scotland while the person who died was at work (see page 89 in Section 4: Court cases).

The police are required to meet certain standards for how they investigate fatal road crashes. These standards are written into a police document called the 'Road Death Investigation Manual'. You can read this document at www.brake.org.uk/codes-and-standards.

Police reports

If the police investigation finds evidence that suggests a crime may have been committed, this evidence is compiled into a report that is sent to the Procurator Fiscal. This report contains all the evidence relating to the police investigation. It is confidential and you cannot see it.

You can see a different police report called a collision investigation report, which explains the physics of what happened in the crash. You may be able to get a copy after any criminal proceedings have finished, or if there is no criminal prosecution. You or your solicitor can ask the Procurator Fiscal for a copy of the collision investigation report.

Before reading a police collision investigation report, you may want to ask your solicitor or the police what it contains. Police reports often contain sensitive information that you may find upsetting. You can ask the police or your solicitor to remove anything you don't want to see or read.

If you are making a claim for compensation (see Section 5: Can I claim compensation?), your solicitor will request an 'abstract' police report that gives brief details of the crash and who was involved. Your solicitor may also request extra evidence from the investigation or ask to interview police officers involved in the investigation. Your solicitor may only be allowed to interview the police or obtain extra evidence after any criminal proceedings are finished.

The police are required to meet certain standards for the disclosure of information after a road crash. These standards are written into a Crown Office and Procurator Fiscal document called 'Access to Information Protocol'. You can read this guidance at www.copfs.gov.uk/access-to-information-protocol.

The Crown Office and Procurator Fiscal Service (COPFS)

The Crown Office and Procurator Fiscal Service (COPFS) is the agency responsible for prosecuting criminal cases that have been investigated by the police in Scotland.

The purpose of a criminal prosecution is to find out if someone has broken the law and appropriately sentence them.

COPFS employs lawyers called Procurators Fiscal to investigate all sudden deaths. The Procurator Fiscal is responsible for:

- instructing a post mortem (see page 26 in Section 1: What happens now?)
- overseeing the police investigation (see page 53)
- deciding whether or not someone should be charged with committing a criminal offence (in consultation with senior lawyers called Crown Counsel, see page 64)
- deciding whether a Fatal Accident Inquiry should happen (see page 89 in Section 4: Court cases).

Once the Procurator Fiscal has considered the police report into a crash (see page 58), they may carry out further investigations or interview witnesses. Once they are satisfied that the circumstances of a death have been fully investigated, they will what will happen next, which may include a criminal prosecution.

For more information about COPFS, including how a death is investigated, go to www.copfs.gov.uk/about-copfs.

Contact with the Procurator Fiscal

The Procurator Fiscal should contact you within 12 weeks of a death being reported to them. When they contact you, they should:

- tell you the progress of the investigation
- offer you a personal meeting, within the next 14 days.

If you do not want a meeting, the Procurator Fiscal can communicate with you in other ways, and you can say how you would like this to happen. The Procurator Fiscal will contact you every six weeks to tell you about the progress of the investigation and you can ask to meet the Procurator Fiscal again, if you want to.

The Procurator Fiscal should consider your views when making decisions about the investigation and prosecution.

Once a decision has been made about whether or not to charge someone for committing a criminal offence, or offences, the Procurator Fiscal should contact you to explain the decision. For information on prosecutions, see page 64.

The Procurator Fiscal will also tell you if you are eligible to make a victim statement (see page 63).

You can contact the Procurator Fiscal to ask questions about the investigation or to say if you have any concerns. Your police contact can tell you how to do this.

The Procurator Fiscal is required to meet certain standards for the different stages of the investigation process and how they provide information about the investigation. These standards are written into a COPFS document called the 'Family Liaison Charter'. You can read this document at www.brake.org.uk/codes-and-standards.

For more information about your right to support from criminal justice agencies, including COPFS, see page 8.

Victim Information and Advice

The Victim Information and Advice (VIA) service is provided by COPFS. If the Procurator Fiscal is considering criminal charges or investigating the death, you will be assigned a VIA officer, if you are the nearest relative of a person who died.

Your VIA officer can:

- give you information about the criminal justice system
- give you information about the progress of your case, including dates of hearings and decisions about bail, verdicts and sentences
- help you to get in touch with organisations that can offer practical and emotional support, if this is what you want
- provide additional support, for example if you have to give evidence
- arrange for you to visit the court before the trial.

If you have been assigned a police Family Liaison Officer (FLO), you will normally be introduced to a VIA officer in a meeting. After this, your FLO will withdraw from your case.

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

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 can get help from VIA, call COPFS on 0300 020 3000. For more information on VIA, go to www.copfs.gov.uk and click on 'Victims'.

If VIA cannot help you, they can refer you to other support agencies if you wish.

Precognition interviews

After the Procurator Fiscal receives the police report, they may decide whether to interview any witnesses as part of the investigation into the death. This is called a 'precognition interview'.

Precognition interviews help the Procurator Fiscal decide if someone should be charged with committing a crime.

If you have evidence relevant to the investigation (for example, 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 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.

Precognitions usually take place in private. It may be possible for a friend or family member to come with you to support you. You will need permission from the Procurator Fiscal for this to happen. You are not allowed to be accompanied by another witness and your supporter cannot take part in the interview. You may be able to claim expenses for attending a precognition interview.

Victim statements

A victim statement is a written statement by you, about the effect of the crash on you and your family. In your statement you can explain how the crime has affected your life and others' lives, for example physically, emotionally and financially.

You and other family members may be eligible to make a victim statement. If you are eligible to make a victim statement, the Procurator Fiscal will write to you and explain what to do. If you do not receive a letter and feel you are eligible to make a victim statement, you can ask the Procurator Fiscal or a VIA officer for more information.

A victim statement is an important document because it will become part of the case papers and will be given to the court. This usually happens if an accused person is found guilty by trial or pleads guilty, before a sentence is passed. The judge or sheriff will consider all the circumstances of the case and your victim statement and decide what weight should be given to it. Your victim statement will not always have an effect on the sentence.

You do not have to make a victim statement. If you choose not to, information about how the crime has affected your life can still be explained in court.

More information, including details of who can make a victim statement and what can be included in a statement, is available in a government booklet called 'Making a victim statement'. You can read this booklet at www.mygov.scot/victim-statement.

The charity Victim Support Scotland can give help and advice on making a victim statement. Call [0800 160 1985](tel:08001601985) or go to www.victimsupport.scot to find details of your local office.

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.

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

Sometimes several charges are brought. Sometimes no charges are brought. If the Procurator Fiscal thinks a serious criminal charge should be brought against someone, they send a report explaining their recommendation to senior lawyers called Crown Counsel. Crown Counsel will then decide which charge or charges should be brought.

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

Charging someone with an offence

Someone who is being charged with a criminal offence is often called 'the accused'. An accused person will be issued with a document, called a complaint, petition or indictment, that tells them to appear in court to answer the charge.

The possibility of bail

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 they would:

- not attend a court appearance
- commit an offence while on bail
- interfere with witnesses
- obstruct the course of justice.

An accused person remanded in custody may apply for bail at different stages, even if bail has been refused earlier. They may appeal against a decision not to grant bail. If bail is granted, the prosecution can appeal against the decision.

People on bail are required to turn up, when required, to court hearings. Other conditions may include limiting where the accused person can live, or preventing them coming near you or your home or near someone else. A person on bail can also be electronically tagged.

If an accused person is remanded in custody, their court hearing must start within certain time limits. You can get more details from the Procurator Fiscal.

An accused person who is on bail and who possesses a valid driving licence will be allowed to continue driving while awaiting trial. If convicted of a crime, they may or may not be disqualified from driving as part of their sentence.

If the accused is granted bail and their behaviour concerns you, for example you see them driving in a way that you consider dangerous, or if they threaten you, report it to the police, VIA or the Procurator Fiscal.

Criminal offences

There are different offences that someone can be charged with after a crash, depending on the evidence collected.

It may help to know that:

- some offences mention that a death or deaths have occurred, but others do not
- sometimes a person, or more than one person, is charged with committing more than one offence.

Some of the offences that someone can be charged with following death on the road include:

Offences that mention that a death has occurred

- Causing death by dangerous driving
- Causing death by careless or inconsiderate driving
- Causing death by careless driving when under the influence of drink or drugs
- Causing death by driving: unlicensed or uninsured drivers
- Causing death by driving: disqualified drivers
- Murder and culpable homicide
- Corporate homicide
- Killing someone by using a defective vehicle

Charges that do not mention that a death has occurred

- Dangerous driving
- Careless driving
- Causing serious injury by dangerous driving
- Failing to stop or report an accident
- Taking and driving away
- Driving otherwise than in accordance with a licence
- Driving while disqualified
- Driving without insurance

For more information about these and other offences and the maximum penalties for each offence, go to www.brake.org.uk/offences.

Maximum penalties are fixed by law and are different for different offences, sometimes significantly. Courts often impose penalties lower than the maximum.

Sometimes, new offences are created, or there are changes to the definition of offences or the maximum penalty for an offence.

If you need more information about why someone has, or hasn't, been charged with a particular offence, you can ask the Procurator Fiscal for a meeting (see page 60), or ask your solicitor (see page 42). You can also ask the National Road Victim Service to email you more information or explain something over the phone.

Changes to charges

Sometimes, if the accused is charged with a serious offence, their lawyers ask the Procurator Fiscal for the charge to be changed to a less serious offence. This is called 'plea negotiation' and usually happens before a case goes to trial.

The Procurator Fiscal may decide to continue charging the accused with the original offence or may decide to change the charge to a less serious offence. Their decision is based on the law, the evidence and what is in the public interest.

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. This is known as Victims' Right to Review.

To find out if this is possible and the time frame in which you must do it, contact the Procurator Fiscal. For more information, go to www.copfs.gov.uk and click on 'Services for victims and witnesses'.

Private prosecution

It is sometimes 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. There must be sufficient evidence in law that a crime has been committed.

Private prosecution is very expensive and you cannot claim legal aid. The consent of the Lord Advocate (see page 90 in Section 4: Court cases) is also required before a private prosecution can take place.

If you need help with practical challenges or emotional support, Brake's National Road Victim Service is here for you. Call 0808 8000 401, email help@brake.org.uk or go to www.brake.org.uk/support.

SECTION 4

Court cases

Court cases

Information and advice on court cases after a fatal crash

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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 72). The information in this section 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 a Victim Information and Advice (VIA) officer should tell you the date and location of any court hearing 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.

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 find places for everyone to sit, although the number of seats available may be limited.

For more information about who can help you prepare for a court visit and support you in court, see page 74. If you are not sure who is going to help you, or what will happen, talk to your police or VIA contact.

Children under 14 are not allowed in court unless they have been called as a witness.

You have the right to request certain information about the progress of your case. This is written into a COPFS document called 'Access to Information Protocol'. You can read this document at www.brake.org.uk/codes-and-standards.

Seeing the accused or their friends around the courthouse

In court, the person being prosecuted is called 'the accused'. Occasionally they are called 'the panel'.

If you were not in the crash, court may be the first place that you see an accused person or their friends. If the accused is on bail, they will be able to use the public areas of the court.

You may want to avoid being in the same space as the accused. Some courts provide a quiet room for victims to sit and wait for the hearing. You can ask court staff or the Witness Service if this is possible.

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 sit in the gallery until you have given evidence.)

It may be possible for you to sit in a different part of the gallery, away from friends of the accused. You can ask court staff, your VIA contact or the Witness Service if this is possible.

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

In court, evidence is presented to 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, or by a witness.

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. People who disturb court proceedings can be asked to leave.

You are usually allowed to take notes in court, but sometimes there are legal reasons that prevent this. You should check with court staff first. You are not allowed to take photos or make sound recordings. You should switch off your phone or other device before you enter the courtroom.

You can ask your VIA contact questions about what is happening in court during breaks.

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. Your VIA contact should 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 is called as a witness to give evidence in court. If you are asked to be a witness, the Procurator Fiscal will send you a letter requesting your availability.

Being a witness in court is a new experience for most people and it may help to have support. A list of people and organisations that can support you is on page 74.

If you have any questions about being a witness, you can call the Procurator Fiscal on 0300 020 3000 for more information.

Information to help you understand what will happen if you are called as a witness is written into a COPFS booklet called 'Being a witness'. You can read this booklet at www.brake.org.uk/codes-and-standards.

Support for vulnerable and intimidated witnesses

Witnesses who are vulnerable or feel intimidated may be able to give evidence with the assistance of special measures such as:

- screening (so you and the accused cannot see each other)
- television links (so you can give evidence from somewhere away from the courtroom)
- allowing a supporter to sit with you while you give evidence
- closing the courtroom to the public while you give evidence
- allowing a written, audio or video statement to be used as evidence
- allowing you to give evidence at a different time and place to the court hearing.

The court has to follow guidelines when deciding who is eligible for special measures. If you want to find out if you can use any special measures, talk to the Procurator Fiscal or your VIA contact.

For more information about support for witnesses, go to www.mygov.scot/being-a-witness and click on 'Help and support'.

Support in court

Attending a court hearing or being a witness in court is a new experience for most people. The following people and organisations may be able to help you prepare for a visit to court or support you in court.

- **Victim Information and Advice (VIA).** The VIA service provided by COPFS can help you understand procedures in court and what happens in your case. It can provide additional support if you are a witness giving evidence. VIA can also arrange for you to visit the court before a trial. Your VIA officer, if you have been assigned one, can meet you when you attend court. They won't sit in court with you but they will try to attend court for any plea or verdict, so they can explain it to you afterwards.
- **Victim Support Scotland.** The charity Victim Support Scotland provides emotional and practical advice and support to victims and witnesses of crime. This help is free and confidential.
- **Victim Support Scotland's Witness Service** can provide support throughout a trial, including if you are a witness giving evidence. The Witness Service is available in all High Court, Sheriff Court and Justice of the Peace courts. They can arrange a visit to the court before the hearing, so you can familiarise yourself with a court room and court facilities. Online tours are also available. Many people find this helpful.

You may be able to get financial support to help with the costs of attending court. You can ask your VIA officer to give you more information or go to victimsupport.scot/victims-fund to find out more about financial support for victims of crime.

For more information about the VIA service provided by COPFS, see page 61 in Section 3: Criminal investigations and charges.

For more information about Victim Support Scotland, call 0800 160 1985 or go to www.victimsupport.scot.

The police or your VIA officer will be able to put you in touch with Victim Support's Witness Service. You can also call the Victim Support Scotland Witness Service helpline on 0800 160 1985 or go to www.victimsupport.scot to find out more.

Courts where offences can be heard

There are different kinds of offence and these can be heard in different courts.

- **Serious criminal offences following a death on the road** are heard in a Sheriff Court or the High Court. The most serious offences are heard in the High Court.
- **Less serious criminal offences** are heard in Justice of the Peace Courts. Justice of the Peace Courts often use the same building as a Sheriff Court.

Preliminary hearings and length of trials

Before the main trial goes ahead, a prosecution may start with one or more short hearings. These hearings are called different names in different courts:

- **preliminary hearing** (in the High Court)
- **first diet** (in a Sheriff Court under solemn procedure)
- **intermediate diet** (in a Sheriff or Justice of the Peace Court under summary procedure).

These short hearings give lawyers an opportunity to talk about any legal issues that may affect the case and discuss the availability of witnesses.

The aim of these hearings is to help a trial proceed smoothly without unnecessary delays. Usually no witnesses are called at these hearings.

Cases can take a long time to come to court. This may be because witnesses need to be traced or documents need to be obtained, or for other reasons. Court hearings may also start late, be cut short or be postponed.

Your VIA officer (see page 61) can explain to you what is likely to happen at a planned hearing and how a case is progressing.

What happens in a Sheriff Court or the High Court?

An accused person is usually required to appear in court to plead guilty or not guilty. Sometimes a solicitor can plead not guilty on behalf of the accused.

If an accused person pleads guilty to a charge, the sheriff (in a Sheriff Court) or the judge (in the High Court) hears the facts of the case before sentencing. They may decide to sentence on a different date.

If an accused person pleads not guilty to a charge, the case will go to trial.

Sheriff and High Court hearings and trials

Sheriff Court trials can be heard in front of a jury (solemn procedure) or without a jury (summary procedure).

High court trials are heard in front of a jury.

Trials may take one day or they may take several days. A trial may be heard on consecutive days or 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 experienced lawyer 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 police crash investigation officers or someone who sees a crash, or events leading up to a crash.

Photographs, videos and diagrams may be shown. Both sides can ask the witnesses questions. The sheriff or judge can also ask the witnesses questions. The accused person can choose not to give evidence.

After all of the evidence has been presented, the prosecutor and the defence lawyer make closing speeches 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 prosecutor to prove the case 'beyond reasonable doubt'.

After the verdict has been decided, the sheriff or judge decides the sentence, or chooses to sentence at a later date (see page 80).

Sometimes a sheriff refers the accused to the High Court for sentencing. This happens if the sheriff thinks the accused should receive a higher sentence than they can impose in a Sheriff Court.

What happens in a Justice of the Peace Court?

A trial in a Justice of the Peace Court is heard by a Justice of the Peace (a trained member of the public) who sits with a legally qualified clerk.

If an accused person pleads guilty to a charge, the Justice of the Peace hears the facts of the case before sentencing.

If an accused person pleads not guilty, the case goes to trial.

Justice of the Peace Courts hearings and trials

Procedures in a Justice of the Peace Court are similar to those in a Sheriff Court (see page 76).

The Justice of the Peace decides the verdict and sentence (if the verdict is guilty). There is no jury.

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

Children's hearings

If the accused is under the age of 16, or aged 16 or 17 and under the supervision of the Children's Hearings System, and they have been 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
- refer the case to the local authority to work with the young person to deal with the offending behaviour, or
- decide not to arrange a children's hearing nor refer the case.

There is information for victims of youth crime on the Scottish Children's Reporter Administration website at www.scra.gov.uk.

The verdict

At trial, there are three possible verdicts: guilty, not guilty, and not proven. If the verdict is not guilty or not proven, the accused goes free. Even if new evidence emerges against them, they cannot be tried again (except in very rare circumstances and for very serious offences).

Sometimes during a trial an accused person changes their plea. They might decide to plead guilty after previously not pleading guilty. Or they might decide to plead guilty to committing a less serious offence.

Sometimes an accused person who is being tried for committing a serious offence is found not guilty of that offence, but guilty of committing a less serious offence.

A person who is found guilty of committing a crime is called an offender.

Pleas in mitigation and background reports

Before an offender 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 or personal circumstances.

The judge may also ask for background information about the offender. This must happen 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. Sentencing may be delayed until a later date so this background information can be provided and the judge can consider the sentence.

Sentencing

An offender's sentence is decided by the judge, sheriff, summary sheriff or Justice of the Peace.

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

- any 'pleas in mitigation' or the findings of background reports (see previous page)
- victim statements (see page 63 in Section 3: Criminal investigation and charges)
- whether the offender pleaded guilty or not. If the offender pleaded guilty, then the sentence can be reduced. This is called a 'discount'. The discount depends on when the offender pleaded guilty, but can be up to a third of the sentence
- guidelines on sentencing
- the level of sentences in similar cases in the past. This is called 'case law'
- whether a warning, community sentence (see next page) or fine is appropriate rather than prison.

The maximum sentence that can be imposed will vary depending on the offence and the type of court it is prosecuted in. A court will rarely impose the maximum penalty and sometimes imposes a much lower penalty.

Very occasionally, a judge decides to discharge an offender without sentencing them. 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'.

If the law changes, offenders will be sentenced according to the law at the time the offence was committed.

If you don't understand the basis for a sentencing decision, talk to your VIA officer or the Procurator Fiscal.

Community sentences

Sometimes an offender is given a community sentence rather than a prison sentence. This means they have to serve their sentence under supervision in their community.

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

- unpaid work in the community
- attending a training programme for offenders
- paying money (through compensation payments) to a person or people affected by their offence.

If an offender has mental health, drug or alcohol abuse problems, and was sentenced in a Sheriff Court or High Court, they may be required to receive supervised treatment and their progress may be monitored.

An offender may also be given a Restriction of Liberty Order which means they are electronically tagged and their movement is restricted.

For more information about community sentences, go to www.gov.scot/policies and search for 'reducing reoffending'.

For more information about sentencing, including sentencing guidelines, go to the Scottish Sentencing Council website at www.scottishsentencingcouncil.org.uk.

Appeals by an offender

Following a criminal case, an offender may appeal against their conviction or sentence or both.

If an offender pleaded guilty, they can only appeal against their sentence.

If an offender is in prison, they can 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 an offender is only appealing against their sentence, the court may confirm the original sentence or impose a different sentence (which may be higher or lower).

If an offender is appealing against their conviction, 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 unless an offender is also appealing against their sentence. If the appeal is allowed, the court may acquit the offender, convict them of a less serious offence, 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 or conviction, 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 offender must lodge their 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.

Your VIA officer should tell you if there is an appeal. They can also 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 an offender serve their whole sentence in prison?

Offenders are usually released from prison before the end of their sentence. This is called 'automatic early release'.

Sometimes an offender is released early under the Home Detention Curfew Scheme. They are required to remain at a particular address during certain hours, and wear an electronic tag to monitor their movements.

An offender sentenced to less than four years in prison will be released after serving half their sentence.

An offender sentenced to four or more years in prison can apply for early release after serving half their sentence. Scottish Ministers will refer cases to the Parole Board for Scotland at the appropriate stage in their sentence. If an offender's first application for early release is unsuccessful, their case can be reconsidered every 12 months.

If an offender was sentenced before 1 February 2016, and any applications for early release have been unsuccessful, they will be released after serving two-thirds of their sentence. If an offender was sentenced on or after 1 February 2016, and any applications for early release have been unsuccessful, they will not be released until the final six months of their sentence.

Offenders must be supervised in the community until the end of their sentence. This is called 'being on licence'.

The Parole Board for Scotland decides whether or not to release an offender on licence, and any licence conditions attached to the release. Before an offender is released, the Parole Board for Scotland must be satisfied that they do not present an unacceptable risk to public safety. It considers factors including:

- nature and circumstances of the offence
- an offender's conduct while in prison
- likelihood of committing an offence if released
- what the offender intends to do when released.

Offenders who are released on licence are required to comply with certain conditions. These may include living at a certain address, a curfew, a requirement not to make contact with you, and compulsory meetings with their supervising officer. If an offender fails to comply with these conditions, or commits another offence, they may have to go back to prison. The court can impose additional penalties if an offender commits an offence while on licence.

Sometimes an offender is released for short periods on temporary licence during their prison sentence. This could be to attend a funeral, to have medical treatment, or to prepare for their return to the community. Offenders must return to prison at the end of a temporary licence.

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

Will an offender serve their whole driving disqualification?

Under certain circumstances, an offender who has been disqualified from driving can apply to court 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 between two and 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 asking for the disqualification to be removed. The court will also consider information from the police about the offender's behaviour since their disqualification. If the court refuses the application, the offender can reapply after three months.

The law sets out the minimum period of a driving disqualification but courts can impose longer bans, including life bans. Courts may lengthen an offender's driving disqualification if the offender is spending time in prison.

Will I be told when an offender is going to be released?

If an offender was sentenced to more than 18 months in prison, you may be eligible to join the Victim Notification Scheme, managed by the Scottish Prison Service. If you are eligible, the Procurator Fiscal or your VIA contact should give you an application form to fill out and send to the Scottish Prison Service. Up to four family members may be eligible to join the scheme.

The Victim Notification Scheme has two parts. You can register for either or both parts.

Part one entitles you to know certain information. You should be told within 48 hours:

- the date of an offender's release
- if an offender dies before being released
- if an offender is transferred out of Scotland
- if an offender is eligible for temporary release (see page 85)
- if an offender escapes or absconds
- if an offender returns to prison for a reason connected with your case
- if an offender has been granted permission to leave hospital without an escort or supervision.

Part two entitles you to know if an offender is being considered for parole or for release with an electronic tag. It also allows you to write to the Parole Board for Scotland about an offender's release, or to request a meeting to talk about an offender's release. If an offender is serving a life sentence or other extended sentence, you may be able to attend by video link a hearing to consider their release.

Your thoughts should be taken into account when decisions are made about any conditions attached to an offender's release, for example if they must not contact you. You should be informed if the Parole Board for Scotland or the Scottish Prison Service has recommended the release of an offender.

You should also be informed if there are any conditions attached to the release that affect you. If an offender serving a life sentence is being considered for release, you should be invited to a meeting with the Parole Board for Scotland to discuss this.

If you are worried about an offender's release or want more information, you can write to the Parole Board for Scotland if an offender is being considered for release on parole. You can write to the Scottish Prison Service if an offender is being considered for release with an electronic tag (Home Detention Curfew) or temporary release.

For more information about an offender's release from prison, email victimsteam@paroleboard.scot.

If an offender has been sentenced to less than 18 months in prison, you are only entitled to get information about their release or escape. You can ask the Scottish Prison Service to give you this information.

If an offender is treated in hospital for mental illness, you may be entitled to receive information about their release through the Compulsion Order and Restriction Order (CORO) Victim Notification Scheme. For more information about this scheme, go to www.mygov.scot and search 'CORO'.

To find out if you are entitled to join the Victim Notification Scheme, talk to the Procurator Fiscal or your VIA contact.

To find out more about the Victim Notification Scheme, call the Scottish Prison Service on 0131 330 3664 or go to www.sps.gov.uk.

Victim Support Scotland can provide support to help you register for the Victim Notification Scheme. For more information, go to www.victimsupport.scot and search for 'victim notification scheme'.

You can choose to join or leave the scheme at any time before an offender is due for release.

Fatal Accident Inquiries

A Fatal Accident Inquiry (FAI) is a public court hearing to find out what caused a death and to consider how to prevent other deaths or injuries.

An FAI is held if a death was sudden, suspicious or unexplained.

An FAI may be held if a road death raises concerns about public safety, for example, if poor road layout or road signage contributed to a crash.

An FAI will be held if someone died in a crash while working, for example a lorry driver.

An FAI cannot apportion criminal blame, nor decide if someone should be punished or receive compensation. These things are decided through criminal proceedings (see Section 3) and civil proceedings (see Section 5).

If enough evidence has been provided at a criminal trial to show why a death occurred, an FAI may not be necessary.

For more information, go to www.copfs.gov.uk and search for 'Guide to Fatal Accident Inquiries'.

Who decides if an FAI should be held?

If the Procurator Fiscal thinks an FAI should be held, they will meet you to discuss your views. Your solicitor, if you have one, can help you plan what you want to say. The Procurator Fiscal will then write a report that includes your views.

The Procurator Fiscal's report is sent to senior lawyers called Crown Counsel who decide if an FAI should be held. The final decision is made by the Lord Advocate, the senior Scottish Law Officer who is responsible for criminal prosecution and the investigation of deaths in Scotland.

If Crown Counsel decides that an FAI will be held, the Procurator Fiscal will write to you within 14 days and tell you when the FAI will take place. If an FAI is not going to be held, the Procurator Fiscal will invite you to a meeting and will write to you to explain why. This is written into COPFS guidance called the Family Liaison Charter. You can read this guidance at www.brake.org.uk/codes-and-standards.

You can choose whether you want to hear decisions about an FAI at a meeting, by phone or by letter. If you say you don't want the Procurator Fiscal to write to you, you can change your mind and get written reasons later on.

If you are unhappy with a decision about an FAI, you can ask for the decision to be reviewed by a senior Crown Counsel who was not involved in the original decision.

What happens at an FAI?

Police, expert witnesses and witnesses can be asked to give evidence at an FAI. You may be entitled to take part by asking questions to witnesses. You may be able to ask a solicitor to do this for you. Legal aid may be available to fund the cost of a solicitor.

If you are pursuing a claim for compensation (see Section 5: Can I claim compensation?), the solicitor who is handling your claim may wish to attend the FAI.

Other interested parties may be able to take part in FAI and ask questions or be represented. This requires the permission of the sheriff.

To find a solicitor that specialises in FAIs, call the Law Society of Scotland on 0131 226 7411.

The FAI determination

At the end of an FAI the sheriff delivers a decision called a determination.

The determination can state:

- when and where the death occurred
- when and where the incident resulting in the death occurred
- the cause or causes of the death
- the cause or causes of the incident resulting in the death
- any precautions that could reasonably have been taken to prevent the death, or to prevent the incident resulting in the death
- any defects in any system of working that contributed to the death or any incident resulting in the death
- any other facts relevant to the circumstances of the death.

The determination may make recommendations to an individual or group to help prevent more deaths happening in the same way.

If the individual or group took part in the FAI, they must provide written details of how they will implement the recommendations. If they decide not to follow the recommendations, they must explain why.

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 is possible, consult a solicitor who specialises in judicial reviews.

Having your say about criminal justice

Victims and witnesses of crime are entitled to a certain level of support and information from the organisations they deal with in the criminal justice system.

This is written into a government document called 'Standards of Service', which explains what you can expect at each stage of the criminal justice process and who you can ask for help and advice. You can read this document at www.brake.org.uk/codes-and-standards.

If you have a comment or concern about the criminal justice system, you have a right to be heard and your point of view considered. Speaking up may also help improve criminal justice in the future.

You may have one or more points you want to raise with one or more criminal justice organisations.

Your first step should be to decide which organisation you need to contact:

- **Police Scotland** is responsible for police family liaison (see page 8) and criminal investigations (see page 53)
- **The Crown Office and Procurator Fiscal Service (COPFS)** is responsible for prosecuting crimes, establishing the cause of sudden or unexplained deaths, and supporting victims and witnesses (see page 59)
- **The Scottish Courts and Tribunals Service** is responsible for providing court buildings, facilities and staff
- **Sheriffs and Justices of the Peace** make decisions about when and how court cases are heard, and the outcomes of those cases (see pages 76-77)
- **The prison service** is responsible for what happens to an offender (see page 88)

Your next step is to find out the complaint policy of the organisation you want to contact. Different organisations have different complaint policies, and these policies explain how to have your say. You can usually find an organisation's complaint policy on their website, or ask a local official who works for that organisation to give you a copy.

A complaint policy usually asks you to submit comments in writing. It should explain who will respond (usually a complaints officer or someone close to your case) and how quickly. Whoever responds should aim to address your comments to your satisfaction. You may also be able to request a meeting.

If you are not satisfied with a response you receive

Complaint policies usually explain steps you can take if you are not satisfied with a response. Usually, this includes giving you the chance to have your comments considered by someone else, such as someone more senior.

If you are still not satisfied with another response you receive, a complaint policy may give you further opportunities, such as having your comments reconsidered by a specialist team, or by the boss of the organisation.

There may also be an opportunity to have your comments considered by an independent agency. For example, the Police Investigations & Review Commissioner may review the way your complaint was handled by the police. For more information, go to www.pirc.scot.

Having your say to the government

Criminal justice organisations, including Police Scotland and COPFS, are set up and regulated by the government, and are the responsibility of particular government departments and their ministers.

If you feel your concerns have not been answered by a criminal justice organisation and you wish to raise your concerns with the government, you have a right to do this.

Any criminal justice organisation can confirm for you which government minister they report to, in which department, and how to contact that minister. You may choose to contact a minister directly, or through your MP or MSP. You can also contact the Scottish Public Services Ombudsman, who is responsible for investigating complaints about organisations providing public services in Scotland. For more information, go to www.spsso.org.uk or call **0800 377 7330**.

For a list of government bodies with responsibility for criminal justice, see Section 6: Useful organisations.

If you are not sure how to have your voice heard, or you need help preparing what you want to say, call Brake's National Road Victim Service on 0808 8000 401 or email help@brake.org.uk.

SECTION 5

Can I claim compensation?

Can I claim compensation?

Information and advice about making a claim for compensation after a road death

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Can I claim compensation?

There is no automatic compensation for people bereaved by a road crash. However, compensation can often be awarded through a legal process called civil law, pursued by a solicitor who you instruct.

To award compensation, civil law usually requires someone (usually a driver in the case of road deaths) to be at least partly responsible for a death. Sometimes this is possible even if no one was charged with or convicted of a criminal offence. Compensation is then usually paid by the responsible person's insurance company. If they were not insured, or can't be found, then an organisation called the Motor Insurers' Bureau will deal with the claim. (To find out more, go to www.mib.org.uk.)

Compensation can be awarded for different things (see pages 101 and 102). The amount of compensation awarded is usually decided through negotiation, but sometimes by a court (see page 104).

A qualified and experienced solicitor can advise you and your family whether you have a claim for compensation, pursue the claim on your behalf, and work to ensure you are awarded the compensation you are entitled to.

As well as advising you about a compensation claim, an experienced solicitor will be able to help with other matters, including:

- applying for government benefits you are entitled to
- helping you prepare a victim statement
- representation at a Fatal Accident Inquiry (see page 89).

Your solicitor should also support you and your family during any criminal proceedings.

Instructing a solicitor to pursue compensation

To pursue a claim for compensation, you need to instruct a solicitor. You are advised to use a solicitor who specialises in fatal injury cases and who is qualified to act in the country which has jurisdiction. That normally means instructing a Scottish qualified solicitor if the crash happened in Scotland.

The Law Society of Scotland provides details of solicitors specialising in different areas of law on its website at www.lawscot.org.uk.

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 that you can ask, to help you decide which solicitor to choose:

- Do you think I have a strong claim and are you willing to take on my case?
- Are you qualified to practise within the jurisdiction of the country where the crash occurred?
- 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 reduced to cover legal fees, and so that I do not have to pay much, or any, legal costs if I lose? (See page 98 for more information on paying your solicitor.)
- 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?
- Are you a member of The Association of Personal Injury Lawyers (APIL) or The Motor Accidents Solicitors Society (MASS)?
- Are you accredited as a specialist in personal injury law or trauma-informed law by the Law Society of Scotland?

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.

Do not delay consulting solicitors. If you have a good chance of getting 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 must be submitted within three years of the date of the death, although sometimes claims must be made within two years. If the crash happened abroad, time limits for claims may be shorter, and can be one year or less.

Your solicitor may also be able to request for Interim Payments to be made in advance of any final settlement.

For a list of solicitor firms that specialise in fatal injury cases, see page 117.

Paying your solicitor

There are different ways to fund a claim for compensation and you should talk to your solicitor about the options available. Make sure you understand exactly what you will have to pay for if you win or lose your claim.

Some people pay for their solicitor as they go, either because they have the funds to do so or because they have an insurance policy that covers legal costs and expenses. Your solicitor can help you check any insurance policy to find out if you are covered for legal fees. Some insurance policies have a limit on how much they will pay to cover legal costs. You should talk to your solicitor about what happens when this limit is reached.

It is usually possible to pay your solicitor at the end of the case. If you win your case, the person you are claiming compensation from will probably have to pay some of your legal fees.

Many people do not have available funds to pay a solicitor to pursue a claim for them. However, it should be possible to reach an agreement with your solicitor that means you won't have to pay anything, even if you lose your claim.

Depending on the agreement you sign with your solicitor, you may also have to pay your solicitor additional fees from your compensation, such as a 'success fee' for winning your case. This is usually a percentage of the compensation you receive.

There are complex laws governing how solicitors are paid in compensation cases. It is important that you understand, from the beginning, how your solicitor intends to cover the costs of your claim and any fees you may be personally liable for, at any time, if you win or lose your claim.

It is important that you do not sign an agreement that would result in your solicitor unreasonably taking a large amount of your compensation if you win your case. You should also be protected from having to pay expensive legal costs if you lose your case.

Legal aid

If you can't afford to pay your own legal costs, you may be entitled to legal aid. Legal aid helps you pay for legal advice and representation provided by a solicitor and is paid for by the Scottish government.

To find out if you are entitled to get legal aid you will need to find a solicitor that does legal aid work. They will be able to talk you through your options, let you know if you're likely to get legal aid and help you to apply for it.

You'll usually need to show that you can't afford to pay for legal help yourself and your problem is serious.

You may have to pay some money towards the legal costs of your case, or pay costs back later.

You may not need to pay anything at all, depending on your financial position and the type of legal help you need.

To find out more and get help finding a solicitor who does legal aid work, call the Scottish Legal Aid Board helpline on 0131 226 7061 or go to www.slabb.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 receive far less compensation than you are due.

Complaining or changing solicitor

If, at any stage, you are unhappy with the service you are getting from your solicitor, you can ask to speak to the person at your solicitor's firm who is responsible for looking after clients. This person is often called the 'client relations manager'.

If you remain dissatisfied, it may be possible to change solicitor.

You can read information about making a complaint against a solicitor on The Law Society of Scotland's website at www.lawscot.org.uk.

The Scottish Legal Complaints Commission can help with your complaint and provide a template letter to help you write a complaint about a solicitor. You can also complete an online form to make a complaint about a solicitor. To find out more, call the Scottish Legal Complaints Commission on 0131 201 2130 or go to www.scottishlegalcomplaints.org.uk.

Types of compensation

Some types of compensation are listed below. Your solicitor may advise you to make one, several or none of these claims. All claims depend on liability being established.

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

2. Service claims

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

3. Loss of society claims

You may be able to claim some level of compensation for grief and anxiety caused by a loved one's death and the loss of their 'society and guidance'. The amount that can be claimed depends on the nature of your relationship with your loved one and other factors. Often, relatives of someone who has died are entitled to make a claim for loss of society. This includes spouses or partners, parents, children, grandchildren, siblings and others. Your solicitor can advise you.

4. The suffering of someone who has died

If someone died after surviving for a period of time following the crash, it may be possible to claim compensation for their pain and suffering. The amount that can be claimed is based on the amount of time that the person suffered and the extent of the pain. It may be possible to claim for loss of expectation of life, if someone knew they were going to die.

5. Funeral expenses

It may be possible to claim for the costs of a funeral and associated costs such as a gravestone. You should keep all receipts.

6. Claims for children

An adult will normally pursue a claim for compensation on behalf of a child or children under the age of 18. This adult is usually a parent or guardian. The court may appoint someone independent to act on the child's behalf.

7. Claims for injuries

If you, or anyone close to you, were injured in the crash, you may be able to make a personal injury claim for those injuries and the losses you have suffered as a result of those injuries. This could include a claim for your pain and suffering, loss of earnings, the cost of medical treatment, adaptations to your home and aids to assist you in your day-to-day life. Your solicitor will tell you if you are entitled to make a claim.

Starting and negotiating a claim

You and your solicitor will decide whether you should claim, what claim(s) to submit and how much to claim. Your solicitor will prepare your claim by collecting evidence, such as police reports, medical records and proof of earnings of a person who has died.

Once your solicitor has investigated and considered your claim, they will contact the insurance company of the person you are making a claim against (called 'the other side' or 'the defender'). If the other side admits liability, your solicitor will start negotiating with them to determine how much compensation they should pay.

The other side may try to argue your claim is too high. For example, if you are pursuing a loss of support claim, they may argue that the person who has died would not have earned as much money in the future as your solicitor is claiming. The negotiations can take a long time, but most claims where someone has admitted liability are settled through negotiation without needing to go to court.

Knowing that solicitors 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 solicitor to keep you updated on a regular basis about how your case is progressing.

Offers made during negotiation

Both your solicitor and the other side can make offers of compensation during negotiations. Offers can be made over the telephone, in a meeting, or by letter or email. Some offers are made without any acceptance of liability.

Either side has the right to accept or reject an offer. Your solicitor should advise you about any offer you receive, the risks involved in accepting or not, and help you reach a decision. You should consider all offers seriously.

If a claim is likely to take some time, it may be possible to request and accept an early, partial payment called an interim payment, to help cover costs such as funeral expenses. This can be helpful if you are facing financial hardship as a result of your bereavement.

Going to court

If your compensation cannot be agreed through negotiation, or if no one admits liability, your solicitor may start legal action against the other side.

Even after legal action has started, your solicitor will continue to try to negotiate a settlement with the other side.

The other side can make a formal offer (called a 'tender') or an informal offer at any point throughout a court action. Your solicitor will help you decide whether to accept or reject an offer.

If an agreement cannot be reached, your case will be heard in the Court of Session or the Specialist Personal Injury Court. Both of these courts are in Edinburgh. Sometimes a case is dealt with in a local Sheriff Court.

Court cases are usually settled in advance and it is unlikely that you will need to give evidence in court.

Success in court cannot be guaranteed. You cannot pre-determine the decision of a sheriff or jury. Court cases may also take a long time to be heard.

SECTION 6

Useful organisations

Useful organisations

Here you can find details of organisations that may be able to help you after a road crash. This includes:

- Organisations that support road crash victims
- Organisations that support victims of crime
- Organisations that support people bereaved by any cause
- Organisations campaigning for safe and healthy mobility
- Government organisations with responsibility for criminal justice and road safety in Scotland
- Your political representatives

You can contact these organisations directly using the information provided.

Brake's National Road Victim Service can help you get the help you need from people and services in your community. Call **0808 8000 401** or email **help@brake.org.uk**.

More organisations are listed at **www.brake.org.uk/orgs**.

See page 117 for a list of solicitor firms that specialise in fatal injury cases.

Organisations that support road crash victims

Brake

www.brake.org.uk

If someone you love has been killed or seriously injured in a road crash, the charity Brake is here to help. We can help you during your darkest and most difficult times.

After the crash, your police contact will give you information about the support you can get from Brake's National Road Victim Service. You can ask the police or a friend to call us for you, or contact us yourself. First, we'll talk to you, to find out what's happened and what support you need. We can help you with practical challenges and help you understand the complex, unfamiliar procedures that often follow a road crash. You can talk to us if you're worried about money or a court case, or how to find legal support. We can also help you support children affected by the crash, or tell other people what has happened. If you're finding it difficult to cope, we're here to talk. We promise to listen to you, and provide a safe space for you to talk about your feelings.

To get help from Brake, call **0808 8000 401** or email help@brake.org.uk.

Brake also:

- Campaigns for solutions that are known to prevent road crashes and reduce harm if a crash does happen.
- Empowers people to speak up for their right to make safe and healthy journeys, whoever they are and however they travel.
- Helps people understand how they can use roads safely to protect themselves and others.
- Helps organisations to learn about, and manage, work-related road risk.

RoadPeace

www.roadpeace.org

RoadPeace provides support and information to people bereaved or seriously injured by a road crash. The charity offers support through its helpline, befriending service, trauma support programmes, local group network and remembrance activities including Remember Me roadside plaques. Roadpeace has an extensive range of post-crash legal guides that can help families navigate the criminal justice system and its legal panel provides advice on civil compensation.

The charity also campaigns to improve victims' rights and the response of the criminal justice system to road danger, and for greater priority to be given to reducing the number of future victims.

Call 0800 160 1069 (Mon-Fri 10am-4pm) or email helpline@roadpeace.org

Aftermath Support

www.aftermathsupport.org.uk

Aftermath Support offers free, confidential advice and support to road victims and their families, which could include:

- Practical help
- A listening ear
- Support from a trained volunteer
- Information about support groups and other organisations who are also experienced in dealing with road victims
- Information about other professional or voluntary support networks
- Information on organisations who can give advice on financial matters

Call 0151 777 2562 or 0845 634 4273 or email support@aftermathsupport.org.uk

SCARD (Support and Care after Road Death and Injury) and CADD (Campaign Against Drinking and Driving)

www.scard.org.uk

www.cadd.org.uk

SCARD and CADD work together to provide emotional and practical support to people who have lost a loved one in a crash, and highlight the dangers of drink- or drug-driving. The charities offer practical, legal and emotional help to anyone bereaved or injured in a road crash.

Helpline 0345 123 5542 (7 days a week, 9am-9pm including bank holidays)
Office enquiries 01924 562252 or info@scard.org.uk

SCID (Scotland's Campaign against Irresponsible Drivers)

www.scid.org.uk

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.

Organisations that support victims of crime

Victim Support Scotland

www.victimsupport.scot

Victim Support Scotland provides free, confidential support to victims and witnesses of crime. Victim Support Scotland's Witness Service provides information and emotional and practical support to victims, witnesses and bereaved relatives attending court.

Helpline 0800 160 1985 (Mon-Fri 8am-8pm, Sat-Sun 10am-4pm)

People Experiencing Trauma and Loss (PETAL)

www.petalsupport.com

PETAL provides support, advice and counselling to anyone who has been bereaved or suffered trauma through crime.

Call 01698 324502

The Manda Centre

www.themandacentre.co.uk

The Manda Centre provides emotional and practical support to anyone affected by trauma, loss and personal crisis.

Call 01698 328724 or email reception@themandacentre.co.uk

Organisations that support people bereaved by any cause

Cruse Bereavement Care Scotland

Call 0808 802 6161 or go to www.crusescotland.org.uk

For children and young people go to www.hopeagain.org.uk

Samaritans

Samaritans operates a 24-hour helpline for anyone in need.

Call 116 123 or go to www.samaritans.org

Breathing Space

www.breathingspace.scot

A free, confidential phone and webchat service for anyone in Scotland experiencing low mood, depression or anxiety.

Call 0800 838587

Quaker Social Action

Quaker Social Action provides practical support for people struggling with funeral costs.

Call 020 8983 5055, email downtoearth@qsa.org.uk or go to quakersocialaction.org.uk.

Citizens Advice Scotland

Citizens Advice Scotland provides access to free, impartial and confidential advice, including on financial and legal matters.

To find your nearest office, go to www.cas.org.uk or call 0800 028 1456.

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

Child Bereavement UK

Call 0800 028 8840 or go to www.childbereavementuk.org

The Child Death Helpline

Call 0800 282 986 or go to www.childdeathhelpline.org.uk

The Compassionate Friends

Call 0345 123 2304 or go to www.tcf.org.uk

Care for the Family

Call 029 2081 0800 or go to www.careforthefamily.org.uk

Winston's Wish

Call 08088 020 021 or go to www.winstonswish.org

If a partner has died:

WAY (Widowed and Young)

www.widowedandyoung.org.uk

Organisations campaigning for safe and healthy mobility

Brake

www.brake.org.uk

(see page 105).

BUSK

www.busk-uk.co.uk

BUSK works with the minibus and coach industry and other passenger transport providers to promote safe journeys for all passengers. The charity specialises in home-to-school transport, school trips in the UK and school visits abroad.

BUSK provides free services for parents and schools and runs an independent star rating service for the coach industry based on safety and legal compliance.

Call 028 4272 1462 or email buskuk@btinternet.com

RoSPA (Royal Society for the Prevention of Accidents)

www.rospace.com

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.

Call 0121 248 2000 or email help@rospace.com

Campaign for Better Transport

www.bettertransport.org.uk

Promotes sustainable and public transport.

Living Streets

www.livingstreets.org.uk

Promotes safety and accessibility for pedestrians.

Sustrans

www.sustrans.org.uk

Develops paths for walkers and cyclists.

Government organisations with responsibility for criminal justice and road safety in Scotland

The Scottish Government

www.gov.scot or www.mygov.scot

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.

Call 0300 244 4000 or email ceu@gov.scot

Police Scotland

www.scotland.police.uk

Has a road policing business area that has some responsibility for determining policing policy. Other policies are determined by the Chief Constable.

Call 101 or fill in the contact form on the Police Scotland website

The Crown Office and Procurator Fiscal Service (COPFS)

www.copfs.gov.uk

COPFS is responsible for the prosecution of crime in Scotland, the investigation of sudden or suspicious deaths and complaints against the police.

Call 0300 020 3000 or email enquirypoint@copfs.gov.uk

Scottish Courts and Tribunals Service

www.scotcourts.gov.uk

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.

Call 0131 444 3300 or email enquiries@scotcourts.gov.uk

Scottish Prison Service

www.sps.gov.uk

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

Call 0131 330 3500

Parole Board for Scotland

www.scottishparoleboard.scot

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

Call 0131 244 8373 or email enquiries@paroleboard.scot

The Scottish Government Transport Directorate

The Cabinet Secretary for Transport is responsible for road safety policy in Scotland.

Call 0300 244 4000 or email scottish.ministers@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

www.transport.gov.scot

Transport Scotland is responsible for trunk road safety.

Call 0141 272 7100 or email info@transport.gov.scot

Road Safety Scotland

www.roadsafety.scot

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.

Call 0131 244 6133 or email enquiries@roadsafety.scot.

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.

Call 0300 123 9000 or email enquiries@otc.gov.uk

Driver and Vehicle Licensing Agency

www.gov.uk/dvla

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

Driver and Vehicle Standards Agency

www.gov.uk/dvsa

The DVSA sets standards for driving and ensures drivers, vehicle operators and MOT garages follow roadworthiness standards. It also provides a range of licensing, testing, education and enforcement services.

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 5000 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.

Solicitor directory

You can use this solicitor directory to help you find an expert solicitor that can help you after a crash.

All of the solicitor firms listed in this directory specialise in fatal injury cases. All of the firms listed provide funding to Brake's National Road Victim Service in Scotland.

They have all also signed up to Brake's Solicitor Code of Conduct for supporting road crash victims. This means they have agreed to help you in ways that are expert, in your interest, empathetic and confidential. You can request a meeting free of charge from any solicitor in our directory, with no obligation to use their services.

To read Brake's Solicitor Code of Conduct for supporting road crash victims, go to www.brake.org.uk/legal.

For more advice on choosing and hiring an expert solicitor, see Section 5: Can I claim compensation.

You can also call Brake's National Road Victim Service on 0808 8000 401 or email help@brake.org.uk.

Brake's National Road Victim Service in Scotland is supported by:

- Digby Brown
- Irwin Mitchell
- Morton Fraser MacRoberts

Digby Brown

Digby Brown is a leading Scottish law firm specialising in personal injury and acting for injured people and their families with client focus at the heart of what we do.

We have a Scotland wide presence with seven offices in Edinburgh, Glasgow, Aberdeen, Dundee, Inverness, Kirkcaldy and Ayr. We are repeatedly top-ranked as a leading Scottish personal injury firm by independent assessors (Chambers & Partners and The Legal 500) and our client-focussed ethos and results saw us named Law Firm of the Year at the 2022 Scottish Legal Awards – the fifth time in eight years we earned this award. We help people affected by road traffic collisions to secure the answers, damages, recognition and justice they deserve. Our case funding arrangements ensure families never bear the burden of any risk or cost associated with civil justice.

Contact:

Brian Castle

T: 0333 200 5925

E: brian.castle@digbybrown.co.uk

www.digbybrown.co.uk

DIGBY BROWN 
because it matters...

Irwin Mitchell

Irwin Mitchell Solicitors are one of the UK's most respected and successful law firms, with an independent recognised personal injury team. We help support our clients with their claims after a road traffic collision, as well as their families, to help them access the best possible medical care, rehabilitation and financial support reaching an outcome that can make a real difference to their lives.

Each year our personal injury lawyers also help bereaved families, who rely on us to fight fearlessly to protect their best interests and to try and gain justice for them in the most difficult of situations.

Kim Leslie has specialised in personal injury law for 25 years and leads the Complex Personal Injury team in Scotland. She is accredited by the Law Society of Scotland as a specialist in personal injury law. She is also a Fellow of the Association of Personal Injury Lawyers (APIL). This is the second most senior award (Senior Fellow being the only higher award).

Kim has a long history of successfully working on personal injury, including fatal claims representing the bereaved family, and international claims, where the injury occurs abroad.

She was a member of the Ogden Working Party and contributed to the 8th Edition and was Chair of the Civil Justice Committee for the Law Society for 10 years. She is currently an Executive Director of the Association of Child Abuse Lawyers; Secretary of the Forum of Complex Injury Solicitors; Committee Member of The Scottish Head Injury Forum and a Council Member and Trustee of the charity The WS Society.

Contact:

Kim Leslie

T: 0141 300 4324

E: Kim.Leslie@irwinmitchell.com

www.irwinmitchell.com



Morton Fraser MacRoberts

Morton Fraser MacRoberts is one of Scotland's largest independent law firms. We are highly recommended by both clients and independent legal directories. As one of the largest litigation teams in Scotland, we have the resources and expertise needed to support victims of road collisions and their families throughout the litigation process. The personal injury team are widely known for their strong commitment to promoting road safety and the interests of road collision victims.

Taking a trauma-informed approach, the team is committed to seeking justice through ensuring access to appropriate medical advice, treatment and rehabilitation while also maximising compensation to ensure victims and their families are financially secure in the future.

Contact:

Nicola Edgar

T: 0141 274 1104

E: Nicola.Edgar@mfmac.com

www.mfmac.com



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APIL (The Association of Personal Injury Lawyers)	Parole Board for Scotland
Citizens Advice Scotland (CAS)	Police Scotland
Crown Office and Procurator Fiscal Service (COPFS)	Police Investigation and Review Commissioner
Digby Brown Solicitors	Scottish Courts and Tribunals Service
The Foreign, Commonwealth and Development Office	Scottish Government
Motor Accident Solicitors Society (MASS)	Scottish Justices Association
National Association of Funeral Directors	Scottish Prison Service
National Records of Scotland	Scottish Sentencing Council
The Natural Death Centre	Transport Scotland
NHS Blood and Transplant	Victim Support Scotland

Please give us your feedback

Your feedback is important to us and helps us improve the support we provide and gain funding. If you would like to give feedback about this guide, please email admin@brake.org.uk.

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National Road Victim Service

If someone close to you has died in a road crash, this guide aims to help.

Find out more about the complex, unfamiliar procedures that often follow a road death, including how the police will investigate the crash, what happens during a court case, and how to choose a solicitor or make a claim for financial support.

If you need help with practical challenges or emotional support, Brake's National Road Victim Service is here for you.

Get in touch for help

0808 8000 401

help@brake.org.uk

www.brake.org.uk/support

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