



ROAD SHARE

The Case for Presumed Liability on Scotland's Roads

Edited and Published by the Road Share Steering Group
www.roadshare.co.uk



Presumed Liability – What We Know and What we Don't Know

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15 April 2015

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Knowns and Unknowns

- What PL is and how it works
- Why PL is needed
- PL is widely misunderstood/misrepresented
- When will the time be right for PL in the UK?

The Roadshare Campaign



Stricter Liability

- How strict is strict enough?
- Civil law, liability, indemnity
- Protecting vulnerable people
 - Adults aged over 70, children aged under 14 and disabled people...receive compensation regardless of fault
 - For other adults the presumption in civil law would be that they will receive compensation

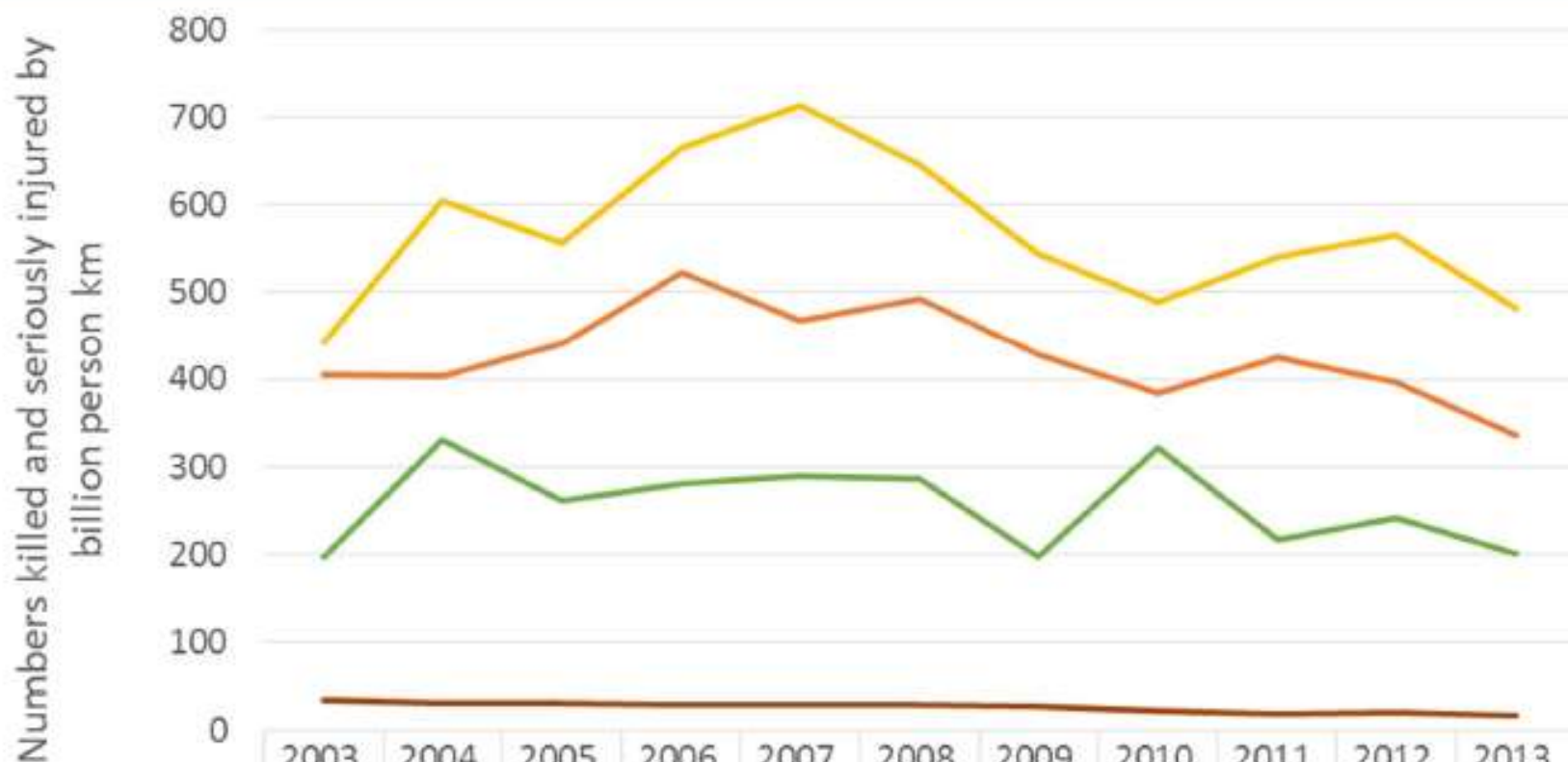
Why PL is needed

- Road casualty victims and people who work with them report serious compound failures
- Pedestrian and cycle safety could be much better
 - Incentives for safer behaviour
 - Safety in Numbers - broad approach needed
- Support for active lifestyles needed
 - Cause and effect is complex but most EU countries have PL in place
 - High cycling countries spend more on infrastructure and have effective education and training programmes

The Road Casualty Challenge for Vulnerable Road Users

- Walking and cycling have been becoming relatively less safe when compared with car travel (in Scotland)
- Levels of walking are still static or falling but cycling activity is starting to rise and seems to be leading to a rise in casualties

Figure 2.1 – Trends in Scottish casualties per billion person km for Cycle, Motor-cycle, Pedestrians and Cars (1)



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Pedestrian	405	404	441	523	468	492	429	384	425	397	337
Pedal cycle	443	604	556	666	713	645	545	489	540	567	483
Motor cycle	197	331	261	281	291	287	197	321	217	241	201
Car	35	32	32	30	29	29	28	22	19	20	18

Economics and Fairness

- We currently assume that vulnerable road users are protected by vehicle insurance policies
- But in practice the vulnerable road users need to make the case and often don't have the resources to do so...
- It is unfair that those that cause the least harm are also the least protected

Lord Denning 1982

“In the present state of motor traffic, I am persuaded that any civilised system of law should require, as a matter of principle, that the person who uses this dangerous instrument on the roads...should be liable to make compensation to anyone who is killed or injured in consequence of the use of it. There should be liability without proof of fault. To require an injured person to prove fault results in the gravest injustice to many innocent persons who have not the wherewithal to prove it”

PL is Widely Misunderstood or Misrepresented

- Systems thinking needed
- There is a lack of mutual respect
- There is some muddled research
 - Interdependencies between the factors affecting road safety and active travel are complex
- What are our social values
 - Various combinations of social factors have led to the introduction of PL in most EU countries
 - Criminal/civil/contractual

Presumed Liability and Government

- Environment
 - PL is an established norm – polluter pays
- Workplace
 - EU directives for PL helped to reduce the rate of fatal accidents in the workplace from 1.3 per 100,000 to 0.5 per 100,000 by 2011/2012
- Consumer protection
 - The consumer is entitled to recover damages for all personal injuries caused by products defects
 - Are injuries to vulnerable road users a defect?

Practical Considerations

- Rights and responsibilities
 - Compulsory 3rd party insurance for cyclists
 - Cycle licensing
 - Presumed liability on only some roads
- Liability as an incentive for social behaviour
 - Preventative action and care
 - Fewer court cases reducing insurance costs
- There are no administrative or legal barriers to implementing Presumed Liability

What we Don't Yet Know

- What will lead to a change in public opinion to support presumed liability?
 - Lower car insurance premiums?
 - A high profile casualty?
 - Extension of EU law?
 - A UK general election debate?
- The Road Share campaign seeks answers....

Support the campaign at [change.org](https://www.change.org)

<https://www.change.org/p/pass-a-member-s-bill-for-presumed-liability-between-motorists-cyclists-and-pedestrians>