

APIL 21 OCTOBER

Thank you for the opportunity to speak at your event today.

I have been involved in the issue of road deaths since my daughter was killed in 2000 by a left-turning concrete mixer lorry, while she was cycling to work. She was 26 and an experienced cyclist. She had a first degree from Royal Holloway and a Master's degree in Information Science from City University. She had a good job with one of the law firms in the City; she had met her boyfriend there and they were planning their future together. Her life was just beginning, and then it was ended by a construction vehicle.

I will talk initially about my own experiences when my daughter was killed. I can assure you that I am not self-obsessed, I am just using myself as an example of what happens to people after a road death. I can also assure you that, yes, my daughter was killed 15 years ago, but I am not living in the past. The same things are still happening, and every time I hear of yet another case involving a construction vehicle it just reinforces my determination that things must continue to change for the better, both in the justice system and in the way work-related road deaths are dealt with in the construction industry.

A few weeks ago I was speaking at a meeting at the Guildhall about cyclist safety, aimed mainly at the construction industry. I had to walk most of the way there that day because the traffic had completely seized up. The closer I got to the City, the more I began to think 'I hope

this isn't what I think it might be'. Yes, it was. It was the day Ying Tao was killed at the Bank junction while cycling to work, another young woman cyclist killed by another tipper lorry. At lunchtime on that day all of us at the conference were invited to go and observe a City Police operation, pulling vehicles into the kerbside and checking if they were compliant with the law and regulations. I said I would like to go and see this, although I didn't know where it was. In fact it was on London Wall, near to where my daughter was killed, so I could look one way and see the place where my daughter had worked, and then look the other way and see the place where she was killed. Quite a few of the lorries which were stopped that day were indeed not compliant, and this is a recurring problem. A new TfL funded Commercial Vehicle Unit was set up, run by the City of London Police, to check lorries coming into the City. In its first month it pulled over 136 vehicles and 95 of them were taken off the road, for a variety of offences, no insurance, unsafe tyres, unsafe load, drivers hours, driving without the appropriate licence etc. In a similar exercise involving the Met Police, 70% of the vehicles stopped were not compliant. That's a lot. On the way back to the Guildhall after looking at the kerbside checks that day I saw the actual lorry that had been involved in the earlier incident at Bank, being driven away by the Police for forensic checks. So it was a very strange mixed experience of seeing how much has been done about lorry safety in recent years, but how much there is still to do.

I had the same feeling the week before that. I had been asked to do an interview for a daytime Crimewatch

Roadshow television programme. I was very pleased to do it because there was a time when road deaths were treated simply as 'accidents' not as crimes, often still are, so being included in Crimewatch was a step forward. They asked me to do the interview at the place where my daughter was killed, which is the junction with Copthall Avenue. When I got there I noticed that there were two Banksmen at the entrance to Copthall Avenue. Banksmen are the people who control vehicle access to construction sites. I had never seen them there before so I asked them what their job was. They said that there was a new construction project there, and that the left turn from London Wall into Copthall Avenue, which is what killed my daughter, was now banned by the construction company involved. Lorries were asked to go to the end of London Wall, round the roundabout, and then come back and make a right turn. So that also was good progress, with the construction company accepting responsibility for managing the vehicle access to the site, not just the building work on site. Thank you to Mace for that one.

What this demonstrates is that we should not tolerate road fatalities and serious injury collisions, there are things that we can, and should, do to eliminate the risk.

I have been involved in many other cases over the years and I know from experience that what bereaved families need is, firstly, to know the truth, to understand what happened, and to try and make sense of the senseless. Then, secondly, they need to know that their loved one did not die in vain. They need to know that the incident has been taken

seriously, and will be properly considered by the company involved in terms of the prevention of similar incidents in the future, and they need the reassurance that appropriate action will be taken.

This is not vengeful, or looking for someone to blame. It is about the basic human need to feel that tragedies are treated with respect, and to ensure that lessons are learned.

So I will talk briefly about my case first. Then I will describe some other cases where there are clear lessons, and talk more generally about how things need to develop in future. We already know that there is an unarguable business case for taking the necessary action, but there is also the human dimension. Surely we can all agree that killing people in collisions which are avoidable and preventable is absolutely unacceptable.

I felt that the way my daughter's death was dealt with by the justice system was careless and thoughtless. There isn't time to go into too much detail, so you will be spared that, so I'll just mention a couple of examples.

When she was killed the police came to my office to inform me that she was dead. I asked where she was and they didn't know. They phoned around and eventually discovered that she was at the Coroner's office. My boss booked a cab to take me to the Coroner's office and when I got there I still couldn't understand what had happened and I said 'Where is she?'. The Coroners officer said 'She's next door'. I said 'Can I see her?', and he said 'No, she'll

be identified by her teeth so I just need the name of your dentist’.

This was in the days before Police Family Liaison Officers, so nobody contacted me and nobody told me anything. My first chance to ask questions was several months later at the inquest, but the driver was going to be prosecuted so he legally had the right not to incriminate himself. I employed a barrister but every question we asked, the Coroner just said to him, “don’t answer that, don’t answer that”. So I got to the end of the inquest and still didn’t know what had happened. The verdict was ‘accidental death’ although how did the Coroner know that it was ‘accidental’ if the principal witness, namely the driver, was officially told to say nothing?

The criminal trial was more of the same. For example, there were some inconsistencies between what the driver had said to the police in his statement and what he had said at the inquest. I therefore asked the CPS prosecution barrister to question him on this, which she agreed to do. The police officer giving evidence began reading from the statement and the magistrates stopped him, saying “The typed version we have in front of us is not the same as the written version you are reading from. Which is correct?” The police officer replied “I don’t know, I can’t read my writing”.

The driver was unsurprisingly acquitted. My daughter was quite keen on law as a subject so I asked myself if she would have passively accepted what happened to me. No, she wouldn’t, so neither will I then.

I put in complaints about the Coroner, the Police and the CPS. And I am not alone in that. The Government Inspectorates of Constabulary and of the Crown Prosecution Service recently published a report on road death cases, showing the extent to which the Criminal Justice System gets things wrong at the moment, and saying that the treatment of bereaved families by the CPS was rated as “poor” in 75% of cases.

After submitting the complaints I then purchased from the police copies of all the witness statements, CCTV evidence etc, and then paid a professional collision investigator to do a site visit, go through all the evidence and report back to me. Then I bought shares in the company, which was RMC then, Cemex now, and went to their AGM in 2002 to speak about what had happened to my daughter and what I wanted them to do. Basically I wanted the same as would apply to an on-site death, namely a thorough investigation of what happened, why it happened and what could be done to stop it happening again.

Cemex did agree to work with me and we have continued to work together, we still do.

Cemex has done some excellent work in driver training, fitting safety technology on vehicles, etc and they are currently conducting a trial of the new Mercedes Econic cab, which is a lower cab than usual with a much bigger windscreen. They invited me to go for a drive with one of their drivers in one of the new cabs and I was able to see

for myself the huge difference the new cab design makes. At a meeting I attended recently, the difference in the driver's field of vision between old and new cab designs was compared to looking out through a letterbox, or looking through a front window. Most construction vehicles have a very very high cab because they were designed and built to go on rough terrain building sites. Fine, but most construction vehicles spend 99% of their time on urban roads and don't need to be that high. We can change that.

The first thing I did with RMC/Cemex was to make a training video for their drivers about the need to be aware of vulnerable road users. I was talking to a group of drivers in one of their depots and one of the drivers seemed to have a much better understanding than others of why cyclists make the decisions they make. I asked why. It turned out that he was himself a cyclist and cycled to work every day before getting in the lorry. So I do support the Exchanging Places events that the Met Police run, which gets cyclists into a lorry cab, and also the Safe Urban Driving course which is available to drivers, which does require them to get on a bike and see a different perspective.

Then, shortly after I had done the driver training video, the RoadPeace office rang me at work one day and told me that their helpline had received a call from a young woman cyclist who had been seriously injured by a concrete mixer lorry and asked me to give her a ring to see if there was anything I could do to help. Her telephone number was in Shropshire so I assumed that what had happened to her had

happened in Shropshire. No it hadn't, it was in London, yards away from where my daughter was killed, the same time of day, the same manoeuvre, the same everything, an exact repeat of what had happened to my daughter. It also was an RMC lorry, so I rang my contact at RMC to ask what he knew about this incident, and he told me that it was in fact the same lorry as the one that had killed my daughter, not the same driver, but the same lorry. So we need to start work on the vehicle then.

She only survived because she held on to the sideguards and stopped her head from being dragged under. It is now a requirement of the Safer Lorry Scheme which was launched on 1 September that HGVs coming into London must have sideguards fitted.

This is a picture of Sue. You can see that the momentum of the vehicle scraped all the flesh from the left side of her body. The lump is where the surgeon at the hospital was trying to grow some extra flesh which could be used for transplants, but that was sadly not successful so she is disabled for life.

The report I eventually received from my investigator into my daughter's death said that the driver had an indicator at the rear of the lorry, but didn't activate it until he had already started moving, and the indicator on the passenger side of the lorry would not have been visible as it was covered with dust. It was a tight corner into a narrow road, so the driver moved over to the right prior to then turning sharp left, so when my daughter came up behind the lorry,

the driver was pulling over to the right and wasn't indicating left, and the road on her left was banned to large vehicles unless they were making a delivery, so how was she supposed to know what was about to happen, telepathy?

So then Cemex began working on the lorry. Additional indicators were fitted along the passenger side. The indicators activate an audible warning which says 'Caution Truck Turning Left' so that everyone in the vicinity, including pedestrians, know what the lorry is about to do. It is now part of the daily walk-round-check for drivers to check that all of their equipment is working and is clean and visible. Yes, the new cab design is important, but it will be many years before all the older vehicles have been replaced so we must give equal priority to the safety technology which can be fitted to vehicles now.

Some other cases where lessons are being learned and action is being taken:

Anish Patel's wife Catriona was killed by a left-turning tipper lorry while she was cycling to work. The driver was over the drink-drive limit and was also on his phone at the time. It emerged that the driver was driving legally at the time, but had 44 previous driving convictions, including for drink-driving, driving while disqualified and driving without insurance. That is why the bigger companies now check the criminal record of drivers as well as their driving licence. Random drug and alcohol tests are also part of the normal practice on the larger projects.

But sometimes smaller firms don't do these checks. Alan Neve was killed in Holborn in 2013, again by a tipper lorry, while cycling to work. The driver was charged with causing death by careless driving, not having an HGV licence, and therefore not having insurance. He planned to plead not guilty to all of those. I went to the first day of the preliminary hearing with the bereaved family and the judge kept saying that he would have to consider a "bad character application". I had never heard of such a thing and didn't know what that meant, but I do now. The CPS barrister had applied to the judge for the driver's previous criminal record of driving offences to be presented to the court as evidence during the trial; not waiting until after the jury's verdict. I asked the police who were there if this was likely to happen and they said no, judges worried about triggering a 'perverting the course of justice' type of appeal and usually said no. However, the judge in this case decided he would allow the 'bad character' application; this meant that a long list of previous driving offences was revealed, including being disqualified from driving five times; and the driver immediately changed his plea to guilty.

That then raised the question as to how he managed to get a job driving a tipper lorry without a licence and insurance and with a significant criminal record. A number of campaigners then carried out their own investigations and wrote to the London and South East Traffic Commissioner about this family firm run by the Drummond brothers. The Traffic Commissioner set up a preliminary hearing; I turned up, they didn't. So then a full hearing date was set, and

again they said they wouldn't attend. Their operators' license and Transport Manager's license was withdrawn but there are still some unresolved issues here.

A new company was established in the same area by another member of the family, a common practice known as 'phoenixing', when people who lose their licence just keep going under another name.

The original Drummond company was based in the area known as Barking Riverside. One of the campaigners went to the area to investigate which companies were operating from there, and how they worked together, and emailed me saying (quote) it was like a lawless area of the Wild West. I mentioned this to three separate large companies in London and they all said, oh yes, we know all about Barking Riverside, yes, it's well known for that sort of thing... So who's job is it then to check on these things? At the time, no-one's job.

However, just last week a new London Freight Enforcement Partnership was set up. This is a joint operation involving TfL, the Met Police, the City Police, and the DVSA. It will be a back-office function which will gather and analyse data, and then use this data to target rogue operators. I'm very glad this exists; with reducing resources available to the Police they need to be able to conduct intelligence-led operations and target the habitual offenders, and there are plenty of them.

They also do plan to make as much information as possible available to the public, and to the people who are awarding contracts and who need to know who is a reliable and trustworthy operator and who isn't. The Department for Transport keeps what is called an Operator Compliance Risk Score, scoring the safety record of companies. Individual companies are allowed to ring up and find out their own score, but no-one else has access to that information, the OCRS is secret. We have asked for OCRS scores to be made public but the DfT has said this will not happen. So we have to hope that the new London Freight Enforcement Partnership will be able to make information much more transparent. But it is clear that it is much more difficult now to keep things secret than as happened in the past. People are more active now in gathering evidence themselves, often on helmet cameras, demanding appropriate sanctions and considering private prosecutions, funded by crowd-funding.

In another case, a 13-year old girl was killed on her way home from school on a pedestrian crossing. The lorry driver didn't know what had happened until passers-by starting shouting at him. He got out of his lorry, saw the child's body under the lorry, and got back into the lorry cab and started deleting the text messages on his phone, in the hope of getting rid of the evidence that he had actually been having a row with his girlfriend by text for about 20 minutes, while driving through Birmingham, sometimes at 56 mph. The police decided there wasn't enough evidence for a prosecution in relation to causing the death, so he was only charged with careless driving and was out of prison in

a very short space of time. But there is plenty of evidence that distraction caused by mobile phone use can be as bad as drink-driving, and it is increasing. An article from Monday's Times newspaper, quoting an RAC report : 'Police turn a blind eye as more drivers use phones at the wheel'.

The child's mother set up a website in her daughter's name where people could leave messages and there were several interesting messages from people who knew the driver about the standard of his driving. In-cab camera systems might have discovered that sooner, black boxes and speed limiters could have helped.

I attended the inquest into this case and was unhappy with something said by the West Midlands Police. I wrote to the Chief Constable but never got a reply. However, things are changing there in respect of the way victims are treated by the criminal justice system. A new Family Support Unit has been set up and it will be staffed by police officers who will just do FLO work, and will also work more with the local community if, for example, a schoolchild is killed, they will work with the local schools on follow-up action. It is the first such unit in the country but hopefully other police areas will follow to improve the support to the bereaved family and take appropriate action.

A good standard of thorough investigation, followed by appropriate action, is important in saving lives, literally. In Kate Cairns' case, her sister was killed by a tipper lorry in Notting Hill. The driver's eyesight was not tested until

three months after the collision; he failed the eyesight test but because it wasn't done at the time of the collision it couldn't be used as evidence in relation to the death. So he was only charged with failing an eyesight test, and fined £200. So he paid his £200, got another job driving a tipper lorry, didn't wear the glasses that had been prescribed, and killed someone else, an elderly woman on a pedestrian crossing.

So on our website we publish a Guide to Collision Investigation so that families can see for themselves what questions should be included in the police investigation.

There is also much work that needs to be done in the justice system and there are a number of initiatives at the moment which we hope will make a difference. Of course an offender has the right to defend himself, but for so many bereaved families it appears that human rights law only applies to the offender and not the victim, the balance is wrong. However, the new EU Directive on Victims is coming into force in November; the Ministry of Justice is consulting on a revision of the Victims Code; Keir Starmer yesterday introduced in Parliament under the 10-minute rules a proposed new Victims' Law; the Transport Select Committee in Parliament is conducting a review of traffic law enforcement. There is now a "road collision" verdict available to Coroners, some use it, some don't. We will continue to campaign in favour of a 'presumed liability' law, which will change the balance of the civil law in favour of vulnerable road users. In the case of one of our members, he was a cyclist and was hit head-on by a car

coming in the other direction, in which the driver was on the phone. The car hit him, he was bounced off his bike onto the bonnet of the car and then into the road. He was unconscious so didn't have a personal recollection of what had happened. He survived, so that case was marked by the police as NFA, No Further Action. The first formal communication he received from anybody about anything was from the driver's insurance company, claiming from him the cost of repairing the bonnet of her car where his head hit it. While he was still in hospital with his skull wired together he had to carry out his own investigation. Fortunately there was a petrol station nearby and he was able to trace through this garage a number of witnesses who confirmed his version of events. When he produced this evidence the driver said, basically, oops sorry I lied, and the case was abandoned. It shouldn't be that hard for the victim.

The person in the RoadPeace office who covers legal issues, including civil law and presumed liability, is Amy who is here, so if anyone has questions on these issues, Amy is the person to speak to.

As I have said, a lot of initiatives which have good potential are happening , but do we need to think bigger than this?

For example, the rail industry has the RAIB – the Rail Accident Investigation Branch - to ensure that information is available throughout the industry as soon as possible after an incident, and this industry-wide learning has been

part of the huge improvement in rail safety in recent years. The Transport Safety Commission in Parliament produced a report a couple of months ago arguing that we should examine if we need the same type of arrangements to cover road transport. I would say yes.

Part of the safety improvements overseen by the RAIB is CIRAS, a confidential reporting system whereby employees who have safety concerns can report them in confidence to CIRAS, where they will be investigated but the complainant's identity is not revealed in case that jeopardises his employment position. Quite a few campaigners have argued that this should be extended to road transport. And just this year TfL has extended CIRAS to buses. So why not extend it to all work-related large vehicles?

Are there drivers who might wish to confidentially report safety concerns? Yes, there are. Drivers have reported at inquests asking their companies for safety measures which were not acted on. I recently attended a meeting at the Unite union, when they spoke about actual cases reported to them of drivers who had been forced to work 15 hour shifts, or had been given delivery schedules when the company must have known that the deliveries were only achievable by speeding.

We need to do better. I have been working with TfL on the FORS and CLOCS projects, i.e. the Fleet Operators Recognition Scheme, and the Construction Logistics and Cycle Safety projects. Both are aimed at setting basic

standards of operation for companies which operate vehicles using public roads, and not just setting the required standards but also following up with the necessary training and enforcement etc. It was clear that the most serious collisions disproportionately involved construction vehicles and so Loughborough University was commissioned to do some research on why that was, and what could be done about it. The research is about to be published, mainly about 'blind spots' and what can be done about them. We also have the Safer Lorry Scheme which requires lorries coming into London to fit sideguards and Class VI mirrors, and they will be fined if they don't. There is also a possibility this may be extended to include the compulsory addition of an extra glass window in the passenger side door, to allow for more direct vision of cyclists and pedestrians.

The companies which have signed up to the London initiatives are national companies who are rolling it out both locally and nationally, and where relevant, to all types of vehicles, not just HGVs. So progress is being made in the road transport industry as well, but we need to ensure that non-compliance is expensive, so that rogue operators who can't be bothered to obey the law are eventually forced out.

We already know that it is not enough to simply have the right policies, there also needs to be compliance monitoring, professional training and a degree of micromanaging all the way down the supply chain, and

using procurement processes to specify safety requirements.

I was at a vigil recently in memory of one of the cyclists who had been killed, and one of the speakers said that, whenever she told people she cycled to work every day, they said to her “That’s brave of you”. Cities are for people, that’s why they’re called cities. It shouldn’t be necessary to be brave, just to travel to work.

There are countless more cases I could mention where there are clearly problems which could have been prevented : speeding, mobile phone use, vehicle defects, incorrect licence, obstructive sleep apnoea, falling asleep at the wheel, illness as in the Glasgow case, no functioning safety technology, etc.

Let me stress that I am not being anti-driver. Last year I did some driver training sessions for the Volker Highways company. I did the training jointly with Simon Castle from the Met Police and Simon focused on the consequences for drivers of being involved in fatal collisions. In one case he mentioned, the driver repeatedly failed to turn up for meetings, so the police went to his house to find out why, and discovered that he could no longer face the world and didn’t ever leave his house at all.

In another case RoadPeace has been involved with, a young woman cyclist was killed by another tipper lorry. The driver shortly afterwards became very ill, and was diagnosed with cancer caused by stress. There was no

prosecution because he died before the case got to court, and his request literally on his death bed was for the company he worked for to up its standards on safety issues. To their credit, they have, and two bereaved families have derived some comfort from knowing about the good work that has followed.

So who benefits from lax working practices? In the age of technology, why do we still send drivers out to work effectively blindfolded?

In an age of austerity why do we not care more about the financial consequences of causing the deaths of vulnerable road users? All the evidence shows that investment in measures which save lives costs a lot less than the billions of ££ spent every year on the consequences for the economy of road deaths and serious injuries. Road deaths and injuries, including those which are not reported to the police, are estimated to cost the economy about £30 billion a year. We are all taxpayers, why can't we all try a bit harder to prevent these things?

So there is work to do; we can and must do much more. We don't need to wait for a law change, there are many initiatives we already know about that will make a difference. We can and must have a target of eliminating these horrific avoidable and preventable work-related road deaths.