

Edinburgh Councillor Blogs – Councillor Jim Orr on the Holyrood Cycling Debate



✘ by Councillor Jim Orr Vice-Convenor of Transport and Environment City of Edinburgh Council, and council spokesman on cycling matters.

Following a motion by Alison Johnstone MSP for Lothians the Scottish Parliament discussed the possibility of introducing strict liability for motorists involved in collisions with cyclists yesterday. The motion debated in the chamber read:-

S4M-07934 Alison Johnstone: Strict Liability—That the Parliament believes that the number of fatalities and injuries to pedestrians and cyclists on Scotland’s roads, including in the Lothian region, is unacceptably high; recognises that the Scottish Government has funded a number of national cycle safety initiatives; notes that versions of a strict liability rule exist in the civil law of many European countries; notes that a number of walking and cycling organisations support the introduction of such a law in Scotland; understands that a petition by Cycle Law Scotland on this topic has secured nearly 5,000 signatures; considers that a stricter liability rule could have positive benefits for the safety of more vulnerable road users as part of a package of measures, and would welcome further debate on this proposal.

“2013 has been an interesting year for commuter cycling in Edinburgh. On the positive side, £20m of extra Scottish Government funding was recently announced including £3.6m for Leith Walk. Yesterday, Edinburgh Council approved a capital spend of 7% of the transport budget to be spent on cycling, a proportion which will hopefully be mirrored in the revenue

spend come budget day. On the negative side, nine cyclists have been killed on Scotland's roads this year – every one a tragedy – and the apparently 'light' sentence imposed on Gary McCourt, the driver who was responsible for the death of Portobello pensioner, Audrey Fyfe, caused widespread alarm. An appeal by the Crown against the sentence was unsuccessful.

In Edinburgh, the Cycling Action Plan for Scotland (CAPS) was relaunched earlier this year but with Strict Liability (SL) specifically excluded from the plans.

The reasons provided were as follows:

“... there has been a consistent decrease in reported fatalities for all categories of road users in the sample countries whether strict liability legislation applies or not. ... The available data does not supply robust evidence of a direct causal link between strict liability legislation to levels of cycling and KSIs, when countries like the UK and Ireland are clearly reducing fatalities in cyclists and all other road users without strict liability legislation in place.”

✘ Green MSP Alison Johnstone opened proceedings at Holyrood in her usual measured, thoughtful style. Here are some thoughts on the more notable contributions from the chamber yesterday afternoon.

Tory John Lamont was one of the few non-Greens, in fact the only MSP by my reckoning, who was explicitly positive about SL. Average cycling rates (as a percentage of all journeys) are 7.4% in the EU compared to just over 1% in the UK. Careful drivers, he said, had nothing to fear about such legislation. He actually preferred the term 'Presumed Liability' although, like many, I'm not entirely clear on the difference. Of the SNP speakers, only Edinburgh MSP Jim Eadie gave the impression that he entered the debate favourably disposed towards SL citing the overall proposition as a “basic sound principle on which to proceed”.

The need to improve safety was a recurring theme, borne out in the comments made by Lothians Labour MSP Kezia Dugdale. Patrick Harvey MSP, the only other Green MSP at Holyrood, described Glasgow's streets as "lamentable" and spoke of his frustration with motorists and their behaviour. Surely, he said, the responsibilities of motorists outweigh those of cyclists. The overall objective is to get more people cycling and he was sure that SL would help.

SNP MSP Graeme Dey raised the spectre of compulsory proficiency tests for cyclists while Conservative Margaret Mitchell's main concern was that SL would send out the "wrong message" and might only make irresponsible cyclists even more irresponsible. Many other contributions focussed on the cyclist behaviour issue while Labour MSP Claudia Beamish, like Harvey, appreciated the wider objective: to encourage a modal shift to sustainable transport forms such as public transport and active travel.

At least two speakers, Labour MSP Sarah Boyack and SNP's Rob Gibson endorsed the idea that Transport Minister Keith Brown should now take the lead in pulling together key stakeholders to take the issue forward. Boyack also criticised, correctly in my view, the one element of the Nice Way Code which was unquestionably flawed – the bus adverts which discouraged cyclists from undertaking on the left, even though many cycle lanes are located on the left for more or less exactly that purpose.

The Minister closed the debate for the government by defending his record on cycling and reminding the chamber of the key role of local authorities. In doing so, he commended Edinburgh's plans to roll out 20mph zones across all residential areas. The Minister explained that local authorities control 94% of roads in Scotland, and he observed that neither Paths for All, Living Streets nor (he understood) Sustrans supported SL.

He also issued what was perhaps a challenge for pro-SL colleagues in the chamber – to bring forward empirical evidence that SL reduces accidents and implicitly commuted himself to looking again at SL should such evidence be produced. Given the lack of enthusiasm from the three active travel-promoting organisations that he cited, the adherents of SL might also see in this a second challenge: to gain some support from them.

It would however appear that there is an inherent difficulty in this challenge which is that, given that road fatalities were found to have decreased in all the sample countries, and given the multitude of other factors which affect such statistics, will it ever be possible to demonstrate objectively that SL improves road safety? Consequently, I would make two further points. First, that I hope our MSPs will submit and debate all types of evidence, by which I mean empirical data AND also the subjective viewpoints of informed observers. Also, I would say that improving road safety is not the single main objective of SL. Simply increasing the numbers of people cycling is another important metric and more people will cycle if, for example, SL makes them feel safer. This can and should also be measured.

Speaking to cycling safety campaigner Ian McNicoll after the debate, he recognised that we're really at the very beginning of a debate and he was pleased at the frequent mention of Edinburgh as leading the way in Scotland."