

## Filtering

By T.C - Wednesday June 28th 2006 - 5:07 pm

Taken from the web forum of [www.advanced-driving.co.uk](http://www.advanced-driving.co.uk)

Link to forum [www.advanced-driving.co.uk/bb/viewtopic.php?t=416](http://www.advanced-driving.co.uk/bb/viewtopic.php?t=416)

I often have to give lectures on road traffic law and in particular filtering, so where do we stand in terms of road traffic and civil law?

Bear in mind that the absolute and specific offence of nearside overtake on a Motorway went out of the window back in the late 70's and was then covered by section 3 of the 72 Road Traffic Act more lately the 88 RTA

One of the main benefits of riding a motorcycle is the fact that unlike our 4 wheeled counterparts, when we come upon lines of stationary traffic, we can still make progress and filter through towards the front of the queue.

Filtering has been the cause of many a debate over the years with many arguing about the legitimacy of such an action.

So what is the legal position?

Well for those of you who are unsure, let me ask you a question! What is filtering? In simple terms it is an overtaking manoeuvre, and in most cases it is perfectly legal provided:

1. You don't cross over or straddle a solid centre white line system.
2. You don't overtake after a "No Overtaking" sign.
3. You do not overtake the lead vehicle within the confines of the zigzags of a pedestrian/ pelican crossing as it may have stopped to allow pedestrians to cross.
4. No danger is caused to other road users and no vehicle is caused to alter course or speed.

So in short, providing those 4 conditions are complied with then there shouldn't be a problem, however when it comes to accidents, civil liability can paint a somewhat different picture.

When a motorcyclist is involved in a filtering accident, most insurance companies will try and use the case law of *Powell v Moody* which dates back to 1966 to mitigate their losses. In that case a motorcyclist was overtaking a line of stationary traffic and was found to be 80% to blame when he hit a car which was "inching out" into the carriageway after a milk tanker signalled to him to pull out. The court felt that the motorcyclist was undertaking an "operation" which is fraught with great hazard and which needed to be carried out with great care.

In the case of *Clarke v Whinchurch* in 1969, an overtaking motorcyclist (Moped) in similar circumstances was found to be 100% to blame. The judge ruled that he (the motorcyclist) should have realised something was happening up ahead when a bus in a line of slow moving traffic stopped to let a vehicle out from a side road on his left. The car came out quite slowly in front of the bus and was hit by the moped. (if you are ever involved in a filtering accident, you probably won't want to quote this case to the other side).

In more recent cases (*Leeson v Bevis Transport* 1972) the motorcycle and emerging vehicle were found equally responsible. The court said that the motorcyclist did nothing wrong in overtaking the line of stationary vehicles, but needed to keep an effective lookout, whilst the van driver should have been aware of the possibility of vehicles overtaking in this way.

The most recent case of this kind was in 1980 in the case of *Worsford v Howe*. In this instance the motorcyclist was in a separate lane intended for vehicles turning right, when he was hit by a car which was intending to cross both lanes of traffic and turn right. The court found once again that both rider and driver were equally to blame and settled 50/50.

In filtering cases, the court will when deciding who is to blame will look at:

1. The speed and position of the motorcycle in the road.
2. Whether the stream of traffic was stationary or moving.
3. How fast the other vehicle emerged from the side road or from the line of traffic.

Filtering is an accepted and legitimate practice, and unless there is a case of dangerous or careless driving to answer, or one of the 4 conditions mentioned previously have been breached, then it is very rare that a Police prosecution will follow, but in terms of a civil action, then this is where the real headache can begin.

As it stands at the moment, although some of the most recent cases have found both parties equally responsible, and in some cases they courts have found 100% in favour of the motorcyclist, you have to bear in mind that you could still end up bearing 80% or even 100% of the blame, simply because as the case law stands at the moment, you will probably not recover your damages in full.

So to sum up, filtering in most cases is perfectly legal, is accepted as being a benefit of riding a motorcycle and is something that just about every rider has done at some stage without any problems, but, should you be unfortunate to have a collision whilst filtering, then just be aware of the pitfalls you are likely to encounter until such time as current case law is updated.