

Driver Trainer Expert Witness Report
A road traffic collision involving [REDACTED]

[REDACTED]
by

John R Lepine MBE
General Manager

The Motor Schools Association of Great Britain Ltd
101 Wellington Road North, Stockport, Cheshire, SK4 2LP
Tel: 0161 429 9669 Fax: 0161 429 9779
Email: john.lepine@msagb.co.uk

at the request of [REDACTED]

Consisting of 8 pages
9 August [REDACTED]

1. The writer

- 1.1. I am John Lepine the general manager of the Motor Schools Association of Great Britain Ltd (MSAGB). Full details of my qualifications and experience are in Appendix 1. These entitle me to give an expert opinion.

2. Summary of the case

- 2.1. The case concerns a crash that occurred whilst driver training was taking place. Provisional licence holder [REDACTED] was driving a [REDACTED] whilst being supervised by driver trainer [REDACTED].
- 2.2. The [REDACTED] was in a collision with another vehicle and as a result caught fire and Ms [REDACTED] was very seriously injured.
- 2.3. Reports on this collision, along with photographs of the location indicate that it occurred in good daylight on dry roads at a well marked road junction with a good visibility in all directions.
- 2.4. I have been asked to provide an opinion regarding the standard of care that should be operated by a driving instructor in the course of a lesson and specifically:
 - 2.4.1. the responsibility of the instructor to the learner driver;
 - 2.4.2. the level of supervision that should be employed in respect of the person that is about to take their test;
 - 2.4.3. the circumstances in which the emergency dual control should be employed;
 - 2.4.4. considering the junction and the particular manoeuvre whether the driver trainer should have kept a look out and applied the dual controls to prevent the learner pulling out, or warned the learner driver as to the presence of the oncoming vehicle.

3. Summary of my opinion

- 3.1. This report will show that, in my professional opinion, if the court decides that the crash was caused because the vehicle driven by the learner driver [REDACTED] was at fault then the driver trainer [REDACTED] did provide a sub-standard level of instruction to the learner driver, was negligent and failed in her duty to provide this pupil with a reasonable level of care.
- 3.2. It is for the court to decide the proportionality of responsibility for the crash between the learner driver and the driver trainer.
- 3.3. It should be noted that I have based my opinion on the statements, reports and photographs I have seen. Appendix 2 includes a list of all the papers, reports and photographs supplied to me. I have not visited the site of the collision.

4. Professional Driver Training

- 4.1. Those wishing to find out about becoming driving instructors are directed towards the governments Business Link web site: www.businesslink.gov.uk
- 4.2. In the section that gives guidance on applying to become an approved driving instructor (ADI) it states:

You will be responsible for the safety of:

- **yourself**
- **your pupils**
- **other road users**

This requires a high level of concentration throughout your working day.

5. Approved Driving Instructors (ADI)

- 5.1. Professional training in the driving of motor cars (category B vehicles) in Great Britain, that is training carried out for money or monies worth can only be conducted by those who are on the Driving Standards Agency, Register of Approved Instructors or by properly licensed trainee instructors.
- 5.2. In order to qualify as an approved driving instructor the applicant must first be able to satisfy the 'fit and proper' criteria which are checked in various ways including the provision of an enhanced criminal record check. In addition they must have a full UK or European Union (EU)/European Economic Area (EEA) unrestricted car driving licence and have held it for at least four out of the past six years before their name is entered on to the register.
- 5.3. They must then take and pass the three part qualifying examination.
 - 5.3.1. Part one (theory) A multiple-choice section and video-based hazard perception section
 - 5.3.2. Part two (driving ability) An eyesight test followed by a practical test of driving technique
 - 5.3.3. Part three (instructional ability) A practical test of ability to instruct.
- 5.4. The rules concerning taking the tests means that candidates must:
 - 5.4.1. pass all three parts in the order shown;
 - 5.4.2. complete the whole examination within two years of passing the theory test.
- 5.5. There are no limits on the number of times candidates can take the Part one (theory). However there is a maximum of three attempts allowed at the Part two (driving ability) and Part three (instructional ability).
- 5.6. If a candidate does not pass in three attempts, they must wait until the end of the two-year period after passing Part 1 before they can start again with part one.
- 5.7. After a candidate passes the Part 3 test they can apply to join the Register. They cannot give instruction for money until they are registered. Registration lasts for four years.
- 5.8. Once properly registered instructors are officially known as a 'Driving Standards Agency Approved Driving Instructor (Car)' it is illegal for anyone not registered to describe themselves as such.

- 5.9. Once registered instructors are sent an official certificate of registration showing their name, photograph and ADI number.
- 5.10. They must not give instruction for money until they receive the ADI certificate and must display the certificate on the nearside edge of the front windscreen of the car while giving instruction.
- 5.11. Licensed Trainee Instructors - A trainee licence allows partly qualified instructors to be legally paid for giving driving instruction.
- 5.12. They can apply for a trainee licence after passing the Part 2 driving ability test and fulfilling a number of other criteria including the provision of a declaration that they have already undertaken a training programme of at least 40 hours with a qualified ADI with at least 25 per cent of the training being practical in-car training. This training must have been received within the six months before the date of application.
- 5.13. Applicants who meet all the requirements are issued with a trainee licence which lasts for six months. They must display a pink badge on the windscreen and further licences are only issued in exceptional circumstances.

6. Statement [REDACTED].

- 6.1. The statement by Ms [REDACTED] has some inconsistencies that suggest that she might not have been legally entitled to give driving lessons for money at the time of the crash; that the lesson on which the crash occurred may not have been a paid lesson and that her inexperience hindered her teaching although that view needs to be weighed against her newness to the task of teaching driving.
- 6.2. Page (P) 3 Line (L) 6 "I qualified on the [REDACTED]" that was the date on which she passed her Part 3 examination. This did not entitle her to give lessons for reward.
- 6.3. P 4 L 6 suggests that lessons had been going on for a period of a year yet a trainee licence only normally lasts six months and Ms [REDACTED] only qualified on [REDACTED]
- 6.4. P 19 & 20 of the statement suggests that whilst Ms [REDACTED] qualified on [REDACTED] she was not in receipt of her registration certificate and therefore not entitled to charge for driver training.
- 6.5. P 20 L 2 suggests that Ms [REDACTED] had a Trainee Licence at some stage but that it had expired.
- 6.6. P 20 L 6 to 20 suggests that Ms [REDACTED] was aware that Ms [REDACTED] was not qualified or registered.
- 6.7. P 3 L 20 to 22 suggests that the lesson was not paid for. Ms [REDACTED] states "we'd become quite good friends."
- 6.8. P 4 L 25 indicates that Ms [REDACTED] completed proper records of pupil's progress and that suggests she was well trained and conscientious.
- 6.9. P4 L 20 Ms [REDACTED] states "she's at the standard where all we were doing literally was driving around." For a professional driver trainer to make this statement suggests a lack of

understanding about teaching driving. There can be little doubt that Ms [REDACTED] was not an expert driver.

- 6.10. P 6 L 34 in relation to emergency stops Ms [REDACTED] states “The first one was a bit iffy” evidence that Ms [REDACTED] driving was not quite as advanced as Ms [REDACTED] suggests.

7. Statement [REDACTED]

- 7.1. Clearly Ms [REDACTED] did at some stage pay for driving lessons with Ms [REDACTED]
- 7.2. P 7 about halfway down the page Ms [REDACTED] states “She was like you’re ready for your test, you know, you’re wasting money on driving lessons.

8. My opinion

- 8.1. Serious accidents involving learner drivers are very rare. The reasons for this are numerous and in many cases obvious.
- 8.1.1. Most learner drivers are naturally cautious.
- 8.1.2. Learner driver are not usually being distracted by such things as music, mobile phones or other electronic devices. (P 26 of the statement from Ms [REDACTED])
- 8.1.3. Learners are supervised so there are two people trying not to have a collision or crash.
- 8.2. In this case neither the learner driver nor her trainer appears to remember anything that happened leading up to the crash.
- 8.3. If the vehicle they were driving did cause the collision then both [REDACTED] and [REDACTED] share the responsibility for what happened. It is for the court to decide the proportionality of responsibility for the crash between the learner driver and the driver trainer.

9. Solicitors Questions

- 9.1. I have been asked by [REDACTED] to provide an opinion regarding the standard of care that should be operated by a driving instructor in the course of a lesson and specifically:
- 9.2. the responsibility of the instructor to the learner driver;
- 9.2.1. The principal duty of any driving instructor is to keep their pupil safe. *The Driving Instructors Handbook*[†] page 25, (publication details at Appendix 3) states: “As an instructor always have the safety and well-being of your pupils at heart, particularly those in the early stages of their driving careers. Avoid taking them into situations they are unable to cope with. Remember you are responsible for their safety.” It is clear to me that Ms [REDACTED] did not keep her pupil safe.

[†]Miller, John and Margaret Stacey. *The Driving Instructors Handbook* 17th edition. London, Kogan Page, 2011

- 9.3. the level of supervision that should be employed in respect of the person that is about to take their test;
 - 9.3.1. The level of supervision that a driver trainer needs to employ for any particular pupil needs to be commensurate with each individual pupil's ability. It is clearly important that the amount of direct instructions "brake here" or "you need to check the mirror" are diminished as the pupil approaches test standard. This is a relatively natural and necessary process in order that the learner driver is prepared for their test and for their driving post test. Reducing the amount of direct instruction being delivered by the trainer does not diminish the responsibility of the trainer to be vigilant in ensuring the safety of their client.
- 9.4. the circumstances in which the emergency dual control should be employed;
 - 9.4.1. Driving instructors are trained to always be ready to take action in the event of an emergency situation. They are taught to adopt the following position when instructing: right foot held over the brake pedal right hand on right knee. This enables them to be ready at all times to take action either by applying the brake or turning the steering wheel. They are taught to grasp the top of the wheel to turn the car to the left and the bottom of the wheel to turn the car to the right.
- 9.5. considering the junction and the particular manoeuvre whether the driver trainer should have kept a look out and applied the dual controls to prevent the learner pulling out, or warned the learner driver as to the presence of the oncoming vehicle.
 - 9.5.1. If the TRL report on the way this accident happened is accepted then clearly the driver trainer should have been able to keep their client and the vehicle safe. If the driver trainer had been observing properly she would have been able to warn the learner driver about the danger of the oncoming vehicle before she moved on to the dual carriageway and if her warning had not been heeded she should have used the dual brake to prevent the learner from moving on to the dual carriageway.

10. Conclusion

- 10.1. I understand that my duty as an expert witness is to the Court. I have complied with that duty.
- 10.2. I confirm that insofar as the facts stated in my report are within my own knowledge I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.

John R Lepine MBE

Date

Appendix 1 - Qualifications and experience John R Lepine MBE

I am the General Manager of The Motor Schools Association of Great Britain Ltd., (MSA) and have held that post since 1984. I first qualified as a driving instructor in 1977 and held various positions in the driver training industry including Marketing Director of CDT Instructor Training Services and a Branch Manager for the British School of Motoring (BSM).

The MSA is the national trade association for driving instructors and schools founded in 1935. Full members of the association are all Driving Standards Agency Approved Driving Instructors (ADI). The association also looks after the interests of those training to become driving instructors and through the Institute of Large Goods Vehicle Driving Instructors the interests of large goods vehicle instructors.

I am the senior executive officer responsible to the Board of Management for the day to day running of the organisation; my principal areas of responsibility are policy and communications. I am also executive editor of the association's publications.

I represent and have represented the association and in some cases the industry generally on various bodies including the Parliamentary Advisory Council for Transport Safety (PACTS); Royal Society for Prevention of Accidents (RoSPA); European Driving Schools Association (EFA); UK Youth – Momentum and First Gear Project. I have also been called to give evidence to the Commons Transport Select Committee

I also sit on a number of industry committees; I am a past chair of the Official Register of Driving Instructor Trainers (ORDIT) Management Committee; and the National/Scottish Vocational Qualification N/SVQ Driving Instruction Management Group. I currently chair the People 1st/Go Skills (Sector Skills Council) Driver Training Group and am a member of the People 1st Members Council for Passenger Transport. I am a member of the Pass Plus Board; the Department for Transport (DfT) Advisory Group on Driver Training and Testing; the DfT Ministers, Road Safety Advisory Panel (RSAP). I have also been a member of a number of task and finish groups including the DfT & HSC independent Work-related Road Safety Task Group, the Fleet Trainer Qualification Committee and I am currently a member of the cross industry steering and working groups undertaking the modernisation of the driver training industry.

I am a Fellow of the Institute of Association Management; a Member of the Driving Standards Agency Register of Approved Driving Instructors; a Fellow of the Institute of Master Tutors of Driving; a Fellow of the Association of Industrial Road Safety Officers and a Member of the Institute of Advanced Motorists.

I lecture throughout Great Britain and in Europe on driver education and related matters. As well as writing regularly for *Newslink*, (driver trainer publication) I have also contributed articles to other trade journals and been the lead author on a number of industry reports. From time to time, I act as an expert witness in driver training related cases.

In 1991 I was awarded the MBE for services to driving instruction and road safety.

Appendix 2 - Documents received.

I confirm that I have received and read the following documents:

- Letter of instruction [REDACTED]
- Devon and Cornwall Constabulary Collision Report [REDACTED]
- Statement of [REDACTED] provided to the Police [REDACTED]
- Statement of [REDACTED] provided to the Police [REDACTED]
- Police record of interview with [REDACTED]
- Transcript of the police interview with [REDACTED]
- Report of [REDACTED] of [REDACTED], in relation to the cause of the fire, together with 171 photographs of the vehicle [REDACTED]
- Accident Reconstruction Report of [REDACTED]