

## QUAD BIKES: INJURIES AND PREVENTION

*Jeff Wilks*

The recent death of a British tourist in a quad bike accident in Spain generated considerable international media attention. According to reports, Lisa Darlington, a 45 year old mother was a pillion passenger on the quad bike driven by her son. He is thought to have lost control of the vehicle and crashed into a stone wall.<sup>1</sup> It was the fourth quad bike accident on the island of Ibiza in the month of September 2012, and the sixth since June 2012.

While tourist deaths and injuries in quad bike accidents are becoming more prominent, or at least more reported (Table 1), traditionally the problem is most common on farms. For

example, since 2001 more than 150 Australians have died in quad bike incidents. Of the 23 quad bike deaths recorded in 2011, 18 occurred on farms. This makes quad bikes the leading cause of injury death on Australian farms (outranking tractors by almost 2:1). Deaths are evenly distributed between rollovers, where asphyxiation/crush injuries are common and non-rollovers, where the victim is flung onto a hard surface as a result of a quad bike crash.<sup>2</sup>

Like other areas of adventure travel and tourism where recreational vehicles are involved, such as

jet skis,<sup>3</sup> accidents occur as a combination of an unfamiliar activity in an unfamiliar environment. In the case of quad bikes, there are the added elements of the quad bike's propensity to roll over due to a high centre of gravity, possible lack of maintenance on rental vehicles, drivers and passengers not wearing helmets, and in some cases the involvement of alcohol or other drugs.

In the benchmark case of *Moran v First Choice Holidays and Flights Ltd* the claimant Cynthia Moran and her husband John were on holidays in the Dominican Republic.<sup>4</sup> They booked an excursion called "Crazy Quads"

through a representative employed by the defendant. The quad bikes were supplied and the excursion was run by a local operator. On 3 July 2001 the claimant was a pillion passenger on a bike driven by her husband as part of an escorted tour. It was alleged that Mr Moran experienced some minor problems with the quad bike at the beginning of the excursion and 30 minutes into the tour he turned to avoid a clump of grass on the track. The quad bike failed to respond, dropped down a ledge and fell some 13–14 feet. Mr and Mrs Moran were thrown from the bike and sustained injury.

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<sup>1</sup> British mother critically injured in quad bike crash in Ibiza dies in hospital <http://www.dailymail.co.uk/news/article-2206186/British-mother-critically-injured-quad-bike-crash-Ibiza-dies-hospital.html#ixzz2CLpklufl>

<sup>2</sup> Herde, E. & Lower, T. *Quad bike related deaths and injuries Australia 2011: Media Monitors report*

<sup>3</sup> Wilks, J. Jet ski accidents. [2010] TLQ 229.

<sup>4</sup> *Moran v First Choice Holidays and Flights Ltd* [2005] EWHC 2478 (QB), 64.

In finding for the claimant Her Honour Justice Davies QC concluded that the cause of the accident was a defect in the quad bike. In particular, it was noted that the defendant had produced no satisfactory evidence to demonstrate that the defective bike had been regularly and competently maintained prior to the accident and thus free from defect. It also failed to provide any post accident inspection evidence to negate the allegation of a defect. The claimant therefore succeeded in her claim based upon the failure of the defendant to exercise reasonable skill and care in the provision and performance of the excursion.

Vehicle maintenance records are a critical issue according to the Federation of Tour Operators. In their Preferred Code of Practice – Quad Bikes, the FTO specifies the following:<sup>5</sup>

- Records of regular servicing for each Quad Bike must be retained
- Details of any safety equipment fitted should be documented and records retained (e.g. speed regulators)
- Records must show that each vehicle undergoes daily checks, made by a person appropriately qualified in this area. These checks should include the following, and records should be retained for at least twelve months:
  - Lights (if applicable) – working
  - Foot brakes (and hand brakes if applicable) – both fully functioning
  - Tyres (tread depth, condition and pressure)
  - Wheel nuts tightened
  - Oil and fuel – all topped up
- All documentation should be retained and made available for inspection by the Tour Operator on request

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- There must be a documented fault reporting and rectifying procedure which will address any faults found during any of the checks above or raised by the driver during the day
- Records must show that each vehicle must undergo a safety check within the time frame set in accordance with local legislation (MOT equivalent). These records should be retained for at least 3 years.
- Bikes should be serviced in accordance with the manufacturer's instructions.

In addition to standard excursion considerations, such as the operator having current public liability insurance, valid registration of vehicles and appropriate licences to operate quad bikes as a business, the FTO recommends that crash helmets

be provided to each participant. Addressing some of the issues in Table 1, on page 34, the FTO suggests that the Consumer Information/Safety Briefing include whether customers are required to hold a valid driver's license in order

to participate in the activity and also whether their holiday insurance covers quad bike riding.

In the death of British mother Lisa Darlington, her son allegedly rented the quad bike using a provisional UK driving licence, when a full licence is required to drive the vehicle on a road. He was arrested after the accident and appeared before a magistrate before being released on bail. In relation to travel insurance, many policies do not provide cover for riding quad bikes. A policy that does include quad bikes will not cover accidents or injuries where the rider was riding without an appropriate licence.<sup>6</sup> Other critical issues raised by the FTO include supervision, safety signage, and operational emergency procedures.

In the UK case of *Evans v Kosmar Villa Holidays* the court held that the FTO Preferred Code of

<sup>5</sup> Federation of Tour Operators. *Preferred Code of Practice: Quad Bikes*. Haywards Heath, UK; FTO, 2007.

<sup>6</sup> Quad bike accidents pose a major risk to travellers

Practice handbook is referred to correctly as guidance; it is advisory in character and has no legal force.<sup>7</sup> Even so, as the benchmark work in the field, the FTO guidelines and audit materials provide tour operators with valuable tools to monitor service quality and to protect their business interests.<sup>8</sup>

This is especially necessary with sub-contracted services like quad bike hire and excursions where inexperienced customers need personal instruction and supervision. The FTO recognises the holiday environments in which quad bike excursions are offered and recommends that, in addition to crash helmets, participants should be required to wear fully enclosed, low heeled footwear (shoes or trainers) not sandals and flip flops. All participants should also be required to wear a shirt or t-shirt (no bare torsos). Finally, the media reports in Table 1 suggest that night riding may

be a factor in quad bike accidents. To address this, and any possibility of alcohol use, the FTO recommends that ideally any excursion should take place in the morning due to the likelihood of clients having alcohol with their lunch.

In summary, quad bike riding is an increasingly popular tourist activity. In view of the serious injuries that can occur if things go wrong on these powerful machines participants should always wear a helmet, check that their driver's license is appropriate for the activity and that their travel insurance covers quad bike riding. Tour operators who arrange sub-contracted excursions by local suppliers are advised to consider the Preferred Code of Practice guidelines provided by the Federation of Tour Operators, especially vehicle maintenance, customer briefing and general safety procedures.

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<sup>7</sup> *Evans v Kosmar Villa Holidays* [2007] EWCA 1003

<sup>8</sup> Wilks, J. The benefits of following safety standards and procedures. *Travel Law Quarterly*, 2009, 1, 99–104.

*Table 1: Media reports of quad bike accidents involving tourists*

<i>Date</i>	<i>Details</i>
October 2012	Melbourne woman Chelsey Callaghan, 38, suffered head injuries when she fell from a quad bike on October 11 about 70km south of Auckland, New Zealand. Ms Callaghan, who was on a tour, was discovered lying beside the quad bike and it appeared she had been flung from it. She had been in a critical condition in Auckland City Hospital since the accident, but died at the weekend. Ms Callaghan had only been in New Zealand for a number of days before the accident, police said.
September 2012	A British couple, aged 64 and 52, were run down by a quad bike in the party town of San Antonio. They were struck as they crossed a busy road at a crossing point at 3pm. The 52-year-old woman suffered multiple injuries while both the man's legs were injured.
September 2012	A British teenager is stranded in hospital on the Greek island of Corfu after suffering terrible head injuries in a quad biking accident while on holiday. Joe Trott, 18, from Orpington, and three friends had paid £48 each to hire the bikes for three days. Although he had some experience of riding them, Joe lost control of his four-wheeled vehicle and crashed into a wall within hours of touching down on the island. The accident left him with serious head injuries and surgeons had to operate to relieve the pressure on his brain. He has just been able to open his eyes after two weeks in a coma. His holiday insurance does not cover quad bike accidents – and now his family is trying to raise £30,000 to fly him back to a British hospital.
July 2012	A French woman was taken to hospital with serious injuries after falling from a quad bike near Cala Jondal.
July 2012	A British teenager is fighting for his life in a Turkish hospital following a horrific quad-bike accident. Muhammed Mubashir Sultan, 19, suffered severe head and facial injuries after losing control of the quad bike he had rented for the day. The accident happened in the popular tourist resort of Marmaris, Turkey. Mr Sultan, and three of his friends had rented quad bikes and were racing on a busy dual carriageway in the seaside resort. Local Turkish TV reported that Mr Sultan lost control of his bike and hit the central reservation then flew across the opposite carriageway and crashed into a parked mini-bus.
July 2012	A British student was left in intensive care with a fractured skull and spine after a quad biking accident while holidaying in Greece. Frank Tchonang, 21, of Norbury, lost control of his quad bike and crashed into a tree while holidaying with a friend.
June 2012	British couple Joanne McGlynn, 29, and Leyton Williams, 42, decided to end a two-week getaway on the Greek paradise isle of Zakynthos with a 4x4 dirt bike tour. Hours into the romantic ride, Leyton accidentally careered into a cliff face, throwing him from the saddle, leaving him unconscious with 20 broken bones throughout his body.
November 2011	A boy of 10 has been stranded in a Turkish hospital after a quad bike accident left him with terrible head injuries. Robbie Street can only return home once an air pocket in his head clears and he is given permission to fly. His worried family is having to raise £15,000 to pay for his hospital treatment after their travel insurance policy failed to pay out. It classifies quad biking as an extreme sport. The accident took place in Bodrum, where Robbie was enjoying a half-term holiday. Robbie was following an instructor with his stepmother riding pillion when the pair got left behind and crashed. He fought bleeding on the brain to survive and also sustained a broken arm, broken nose, bruised ribs and a cracked eye socket.
August 2011	A British woman was rushed to hospital after she was trapped under a quad bike that flipped over on a safari trip in Turkey. Karen Lough, 49, was refused an ambulance by the tour operator before discovering they were uninsured and that she and her husband James, 51, would have to foot the hefty hospital bill. The Loughs, believed to come from Eyemouth in Scotland were promised helmets and insurance cover when they booked the quad-bike safari with an agent in the popular tourist resort of Kusadasi. But according to husband James the couple were discouraged from wearing helmets by tour leaders who said they'd be too hot. James begged staff to call an ambulance but they opted to drive Karen to hospital in a car instead where she was discovered to have a broken arm and severe cuts and bruising.
August 2011	A baby has been left orphaned after his parents were killed in a quad bike crash as they honeymooned on a paradise island. Newlyweds Jonathan and Emma Gray died in the Maldives just a week after getting married. The powerful vehicle reportedly left a sand-covered road and smashed into a tree. The unnamed driver, who was giving them a lift back to the hotel, was in a serious but stable condition in hospital at the island's capital, Male.
June 2010	A Scottish teenager has been killed in a quad bike accident during a break in Greece. James Waddell, 18, was hit by a taxi after falling off his machine when he clipped the back of another quad bike after a night out with pals on the island of Zante. The apprentice mechanic, from Dalry, Edinburgh, was part of a group of 35 pals, some celebrating the end of exams, who were staying in the popular south coast resort of Laganas when tragedy struck at 4am on Sunday.