

Trade voice: Navigating the new legal landscape

The legal landscape around the insurance industry and the claims sector is approaching a period of unprecedented change.

Trade bodies, including the Forum of Insurance Lawyers, have a vital role to play in examining the fine detail of all proposals to ensure they are fit for purpose and sufficiently robust.

So what are those areas of change? On Foil's agenda for this year are eight main areas of focus where we anticipate our sector experts who are specialists in diverse areas of insurance law, will need to scrutinise proposals and advocate change.

The challenges arising from Brexit: With the process and timetable for Brexit still uncertain, the nature of the UK's future relationship with the European Union and the effect of the change upon the UK's law and regulation and its business environment remains unclear. Leaving the EU represents the biggest change in the UK's constitutional and legal framework for a generation.

Reform of the claims process: Recent reforms have changed significantly the processes for claiming compensation to make the system more efficient and proportionate. More needs to be done now to ensure all parts of the civil justice process are reformed, that unwarranted claims are discouraged, that claims processes are streamlined, and that a collaborative approach by the parties is encouraged (where appropriate) to achieve early settlement.

Development of fixed costs and costs management: Reforms to the civil litigation costs regime have resulted in legal costs becoming more proportionate and more controllable but these reforms need to be extended further through greater use of fixed costs for all claim types and, in cases where costs are not fixed, effective costs management. The rules already in place must work as intended.

Excessive costs of compensation for financial loss: The costs associated with claims for financial loss are too high

in many instances, in some cases allowing third party organisations to profit without benefiting the claimant.

The challenge of technological change: Technological developments transforming day-to-day life and business are already here and will develop apace over the next three to five years, requiring significant legal changes and a fresh professional and business response.

Tackling fraud: Fraudulent and exaggerated claims corrupt the civil justice system and impact adversely on insurance premiums and public expenditure. Fraud must be identified and dealt with wherever it occurs.

Working closely with clients: Changes in legislation and case law are creating new challenges for insurers and insureds. Lawyers must become trusted advisers that help clients chart their way through change, understanding the implications for specialist sectors and advising on issues affecting business operations and practices.

Continuing improvement of professional standards: Law firms representing insurance clients must benefit from an effective, modern professional regulatory regime, attract talented individuals and provide appropriate training and development to enable them to become fully-rounded insurance lawyers. Over the past 18 months, Foil has spearheaded development of a bespoke set of industry measures which complement and sit alongside the Solicitors Regulation Authority's own competency regime for all practising solicitors.

The Foil Standard, welcomed by the SRA, provides the insurance market with an independent assurance that their legal advisers have competence in specialist areas of insurance law and that those lawyers and their firms are committed to programmes of continuing professional development.

In a world where so much is changing around us, and so quickly, it is not enough simply to be on our game. As advisers and trade sector specialists we have to be ahead of the game.