FOIL
FORUM OF INSURANCE LAWYERS
the VOICE of FOIL
Informing Progress - Shaping the Future



Voices That Shape Justice: A Witness-Focused Edition

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Future Editions

If you are interested in contributing material to a future edition of the Voice, please contact info@foil.org.uk

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In this Edition

3 - Welcome to the November 2026 edition

4 - AGM and President's Conference

5 - President's Page (Bridget Tatham, Browne Jacobson)/President's Charity (ACCI)

7 – It's Westy's Fault Really (Laurence Besemer)/Reflections from the FOIL Community

14 – The Artificial Witness: The Dangers of AI in Witness Preparation (Samatha Jones, 39 Essex Chambers)

17 – Witness Coaching & AI (Steven Brownlee, FOIL)

19 – Use of AI by Experts (Shirley Denyer, FOIL)

21 - Introducing St John's Buildings

22 – From Claims Expertise to Expert Witness (Adrian Gilbert, SX3)

24 – Getting the Best from Your Forensic Engineering Expert (Ken Roberts, Aurora Insight)

26 – Voices that Shape Justice (Ling Ong and Jacqui Bickerton, Weightmans)

28 – Witness Evidence in a Changing NI Litigation Landscape (Cathal O'Neill, Carson McDowell LLP)

30 - Tomorrow's FOIL Update

32 - Operations Update (Ian Thornhill, FOIL)

33 - A 60 Second Interview with Neil Garrett (Verisk)

34 - Trade & Industry Spotlight

36 – FOIL in the Media

Welcome to the November 2026 edition

Stratos Gatzouris (DWF and Editor in Chief)
Jeffrey Wale (FOIL Technical Director and Assistant Editor)

Welcome to the November edition of the Voice, focusing on witness evidence and the strapline 'Voices That Shape Justice'. It is also an opportunity for members and partners to say goodbye to Laurence Besemer, who has served as FOIL CEO for 17 years. We also welcome his replacement, Mark Huxley and wish him well in the years ahead. There is a commentary from Laurence about his time with FOIL, plus reflections from colleagues and past Presidents. We wish Laurence all the best in his future endeavours. We will miss his wise counsel and energy in driving FOIL forward as an effective professional membership organisation.

This edition also provides an opportunity to hear from the outgoing FOIL President, Bridget Tatham (Browne Jacobson) about a lawyer's civic role in the context of witness evidence. We also learn more about the fundraising work for one of the President's nominated charities, ACCI.

Don't forget that the FOIL AGM and President's Conference are being held at the offices of Browne Jacobson, London on Tuesday 24 November 2026. Further details can be found overleaf.

Turning to the core theme for this edition, we hear from Samantha James (39 Essex Chambers & FOIL sponsor) about the dangers of using AI in witness and witness statement preparation. There are also complementary articles covering the use of AI in witness coaching (Steven Brownlee) and the use of AI by experts (Shirley Denyer).

Adrian Gibert (SX3) considers the role of independent, specialist assessments in avoiding or supporting litigation, the distinct responsibilities of formal expert evidence and how evidence, market data and benchmarking can inform outcomes.

Ken Roberts (Aurora Insight) considers how you should go about getting the best value from your forensic engineering expert.

We hear from Ling Ong and Jacqui Bickerton (Weightmans) about the value of independent witness evidence. They argue that in an increasingly digital world, the most persuasive voice in the room may still be the human one.

Cathal O'Neill (Carson McDowell) provides a helpful update on witness evidence developments in the changing Northern Ireland claims landscape.

We are pleased to welcome St John's Buildings as a new FOIL sponsor, plus we have a 60 second interview from Neil Garrett at Verisk, also a FOIL sponsor.

In addition, there is all the usual operational, media and trade & industry coverage together with an update from Tomorrow's FOIL.

We hope that you enjoy reading the articles and look forward to receiving your ideas for the next edition of the Voice. Once again, thanks to Ian Thornhill for his work on coordinating submissions for this edition.

Stratos and Jeff

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FOIL Annual General Meeting

and

President's Conference

The FOIL AGM will be held in London on **Tuesday 24 November 2026.** This will be followed by the President's Conference.

AGM Agenda

13:45 Welcome.

13:49 Approval of the AGM 2025 minutes.

13:50 Treasurer's report:

- Approval of 2025 accounts,
- Projection for 2026,
- Reappointment of accountants.

2027 Membership Subscriptions.

13:58 Secretary's report:

- Constitutional amendments /resolutions,
- Election of officers for 2026.

14:05 Incoming President's address.

14:10 FOIL Structure 2027 onwards.

President's Conference Agenda

FOIL's Broader Mission: Innovation, Regulation & Resilience

14:45-14:55 Welcome and opening with FOIL President, Bridget Tatham.

14:55-15:20 Ideja Bajra / Edvance – Ideja will speak on the subject of (Re) humanising AI.

15:20-15:45 Caroline Wagstaff / London Market Group – Caroline will be speaking on future talent within the London Market.

15:45-16:15 Richard Martin / Mindful Business Charter – Richard will introduce the Mindful Business Charter and speak on best practice approaches.

16:15-16:30 Tea, coffee and networking.

16:30-16:40 Recorded contribution from Olivia McGuigan, President of Tomorrow's FOIL.

16:40-17.15 Panel discussion chaired by Simon Murray / DWF – with Ideja Bajra, Richard Martin & Dr Jeffrey Wale. Digging deeper into the speaker's subjects and audience questions.

17:15-17:30 Closing remarks with Bridget Tatham, Laurence Besemer, and introduction of the incoming CEO Mark Huxley

17:30-18.00 Drinks reception

If you would like to attend either event, please register using the following links: AGM and President's Conference. Please note that only FOIL members and officers are eligible to attend the AGM.

The President's Page



Bridget Tatham (Browne Jacobson & FOIL President)

Witness Voices: Inclusion as Professional Obligation

Witness evidence in insurance litigation is gathered from a wide range of people; employees, members of the public, contractors, bystanders, many of whom have no prior experience of formal legal proceedings. The process of taking that evidence has traditionally been designed around a particular kind of witness: one who is articulate, legally literate, and comfortable in formal settings. For those who do not fit that profile, the experience of giving a witness statement can be a significant barrier, not because of any deliberate exclusion, but because a process calibrated for one type of participant will inevitably work less well for others.

A Civic Role the Industry Rarely Acknowledges

The insurance sector handles an extraordinary volume of claims involving members of the general public. In doing so, it operates as one of the largest points of contact between ordinary people and the civil justice system. That is a significant civic function and one that carries with it a responsibility that goes beyond the purely commercial.

When a witness engages with the claims and litigation process, they are not simply a source of evidence. They are a person navigating an institution that holds considerable power over their circumstances. How that institution treats them, whether it creates conditions in which they can genuinely participate, or whether it processes them through a procedure calibrated for someone else, is a matter of access to justice, not merely claims handling efficiency.

The Defendant Lawyer's Role — and Responsibility

There is a tendency in discussions of inclusive witness practice to frame the issue as one that concerns claimants and their representatives. The defendant insurance lawyer, on this reading, is a passive observer, someone who benefits or loses depending on how well the other side has prepared their witnesses.

That framing is too comfortable. Defendant lawyers in insurance litigation frequently take witness statements from their own insured witnesses, employees of corporate defendants, site managers, medical practitioners, and others whose accounts are central to the defence. Those witnesses are subject to exactly the same pressures and vulnerabilities as any other. A long-serving employee giving evidence on behalf of their employer may feel unable to speak freely. A contractor whose first language is not English may sign a statement they have not fully understood. A witness with an undiagnosed learning difficulty may have structured their account around what they thought was expected rather than what they actually recall.

The defendant lawyer's obligation in these circumstances is not diminished by the fact that the witness is on their side. The process

of taking witness statements must be accessible. Where there are indicators that a witness is struggling the responsible course is to pause, adapt, and if necessary, seek appropriate support. That is not softness; it is professional rigour.

There is also a broader point. Defendant lawyers who approach their own witnesses with the same commitment to inclusivity that we would expect the claimant's team to bring are lawyers who can be more confident their evidence will withstand scrutiny.

Obligation, Not Goodwill

Inclusive witness practice is sometimes presented as an exercise in sensitivity or corporate social responsibility. That framing is both condescending and inaccurate.

Inclusive practice is a professional obligation. The overriding objective under the Civil Procedure Rules requires the court to deal with cases justly. The responsibility to ensure that witnesses can participate meaningfully in proceedings is not optional, and it does not sit solely with the claimant's team.

Given the volume of people who pass through its litigation processes each year, the cumulative impact of getting inclusive practice right is substantial. The voices that shape justice should be all of them not only the ones the process finds easiest to hear.

President's Charity

FOIL Charity Quiz Raises Funds for ACCI

FOIL's annual Charity Quiz took place on Thursday 15 October at Browne Jacobson's Birmingham office, bringing together nine enthusiastic teams from across the sector.

Members from DWF, DAC Beachcroft, Browne Jacobson, Clyde & Co, Keoghs, and a joint FOIL/ACCI team enjoyed the evening, creating a lively and good-natured competitive atmosphere.

The quiz was hosted by Shaun Wallace — The Dark Destroyer — whose energy, humour and sharp questioning kept teams on their toes throughout the night. His presence added a real sense of occasion, and FOIL was delighted to have him on board to keep the rowdy teams in order!

After a closely fought contest, Browne Jacobson's team, Where's Andrew?, claimed first place, securing well-earned bragging rights for 2026.

The event also raised valuable funds for one of FOIL's President's charities for the year, the African Caribbean Community Initiative (ACCI). With a few team payments still being finalised, the combined total — including raffle proceeds — will reach £1,440.

Representatives from ACCI joined us on the night, adding to the sense of community and shared purpose.

FOIL extends sincere thanks to Bridget Tatham and the Browne Jacobson team for hosting the event so warmly, and to all participating firms for their support, enthusiasm, and generosity. A special thank you goes to Shaun Wallace for taking time out of his busy schedule to lead the quiz and help make the evening such a success.

It was a fantastic night for a fantastic cause.







It's Westy's Fault Really.



Laurence Besemer (FOIL CEO)

So there I was in late 2009, chugging along fairly well with my consultancy business, pitching to the self-insured public transport sector, when in comes an e-mail from Richard West, a solicitor I had worked with whilst I was at First Group and for whom I had a lot of respect. It was a copy of an e-mail from Claire McKinney, the then Director for Change at FOIL, looking for suitable candidates to take on the newly created role of CEO at FOIL. Richard asked if I would be interested.

Obviously, I had heard of FOIL although I didn't know too much about it at that point. So I put in a few phone calls to other lawyers I knew, to see what they thought. The views ranged from "it's going nowhere" through "that's quite a challenge" to "it has potential, just needs pulling together". I even remember one lawyer saying it would be a "courageous" move on my part, in that Sir Humphrey Appleby tone that suggests they thought it was anything but a sensible thing to do.

Anyway, I decided to throw my hat into the ring, attended the interview panel and having by this time learnt a lot more about FOIL and recognized the potential mentioned, I was very pleased to take a call from Claire a couple of days later offering me the job. At the time I

thought I would do it for a year, maybe two at the most, so I suppose I'm a little surprised to be sitting here 17 years later writing my final column for The Voice before stepping down.

When I was asked to write a valedictory piece, I wondered whether readers might expect to hear about exciting times, of court room dramas and raging battles with the opposition, about FOIL's earnest and enduring fight against the pernicious and economically damaging culture that we have in our country, a culture that rewards victimhood, that seems structured to discourage resilience and recovery and which encourages apportionment of blame wherever possible. For some, the concept of innocent accident seems beyond comprehension.

For sure, I personally still feel missionary levels of zeal in wanting to turn around this mindset, a mindset that is so damaging to the UK economy as well as to individuals, a mindset that demands that someone or some entity, preferably one with deep pockets, has to be found to be responsible and made to pay for every less than enjoyable experience in life.

I think my enduring passion for trying to change this unhelpful ideology stems from two early experiences I had as a claims handler. On my first day in insurance, 17th of December 1979, I was told that claims handlers at the Norwich Union were to act as "guardians of the common pool". To a slightly dreamy teenager still trying to make it as a heavy metal guitarist, this phrase conjured gothic images of gallant knights and heroic acts of resistance. It seemed to me that my mission was to be a brave and valiant fighter against the dark and evil forces of fraudulent claims. It didn't seem to have much application to the windscreen claims I was handling, but it was inspiring nonetheless. The second phrase that reinforced my view that there is a worthy fight to be fought here was "justice for the defendant". Up to that point civil justice had been presented to me as only intended to be available to those who had suffered some misfortune and the idea that it was right and proper for the defendant also to have access to justice struck quite a chord with me, even then.

But long-term observers of FOIL will know anyway that none of this slightly overblown rhetoric fits the house style. FOIL works through making steady, sure and unspectacular progress, using its independent voice and its place at the table to help achieve a proportionate and cost-effective civil justice system that works for everyone. The cumulative impact of years of FOIL's cogent eloquence and diligence has and will continue to serve its members and the insurance industry well, now and for many years to come.

I think that all law firms that want to support their insurer clients should contribute to the cost of achieving what FOIL achieves on behalf of the insurance industry. I'm not going to call them out here, but there are still some insurance law firms who are not members of FOIL and I would ask every insurer that reads this to speak with their legal services suppliers about contributing to the cost of running FOIL by joining.

FOIL has changed enormously from the organisation I joined 17 years ago and now deals with so much more than whiplash and low value slips and trips. However, I think it's worth looking back on where it was in 2010 in

terms of its independence from the insurance industry.

Very early on I was told by a leading insurer in no uncertain terms, that FOIL was there to do whatever insurers told it to do. When I asked what that was exactly, the answer amounted to "just disagree with APIL". I didn't think that was a particularly wholesome or sustainable brief and, being a somewhat contrary individual, determined there and then that FOIL should become much more than "the poodle of the ABI" as one claimant lawyer had called it. In any case, it quickly became apparent, as if I didn't already know, that insurers rarely agree unanimously with each other anyway and therefore the idea of coming up with a position on any topic that was in line with every members' every client was fanciful to say the least.

To be eligible to join FOIL, a law firm must have a practice that is predominantly or exclusively for insurance clients, and the cost of membership is based on the firm's annual defendant insurance practice turnover, so inevitably FOIL's members' views are defendant orientated. However, everything FOIL says is FOIL's own view, a consensus position drawn from discussion with its members, but very much branded as FOIL's position.

I'm very proud to say that FOIL is now recognised as having a truly independent voice earned by expressing thought through and rational points of view over many years. It is an organisation whose opinions are sought by Government, the judiciary and legal and insurance professional organisations in the UK and across the world.

Not only does FOIL now work on almost every class of insurance and reinsurance, type of claim and technical legal topic important to its members, it also provides support through working groups tackling sector wide commercial issues that impact all businesses, including law firms, ranging from statements on climate change, through best practice for diversity and inclusion, to the adoption of AI.

FOIL has also expanded into four new territories during my time, the Republic of Ireland, Gibraltar, the Channel Islands and the Isle of Man and it has established and strengthened links with counterpart organisations in America, Canada and, surprisingly, Cyprus.

None of this progress could have been achieved without the help and support of some seriously talented people and there really isn't enough space here to thank everyone who has helped to take FOIL to where it is now but there are some people whose contributions that I really want to acknowledge publicly.

Shirley - thank you for your support, the occasional and well justified challenge, your friendship and for showing me that, however complicated I thought something was, there was probably a much simpler way of looking at it. You have been an enormous part of my FOIL journey and I am hugely grateful.

Jeff - thank you for your brilliant mind, your enthusiasm and your energy; you know exactly when to tell me I've gone wrong and when to just let me get on with things.

FOIL is very lucky to have you as Technical Director, and I hope you will continue to provide the organisation with your insight and wisdom for many years to come.

Ian- as Operations Manager you bring me solutions, often to problems I hadn't even thought of! You run the "get-stuff-done" department with quiet efficiency and humour and I have really appreciated the opportunity over the past couple of years to let off steam privately with you when things haven't quite gone the way I wanted them to go. Thanks.

Sarah - where would we all be without you? Organizing and reminding, chasing and checking- literally nothing happens at FOIL without your involvement. You are calm under pressure and always spot the problem round the corner before I go crashing into it.

Steven - your quite remarkable ability to get your head around seemingly any issue and then produce an engaging piece of writing on the topic has been of huge value to FOIL in recent years and I've personally very much appreciated your professionalism and courtesy.

There are many challenging issues ahead for the legal and insurance professions and I look forward to reading more of your work in the coming years. I have been incredibly fortunate to work alongside all of you.

And then there are the Presidents, seventeen of them. Every President brought something different to FOIL. Different personalities, priorities, experiences and different ideas about where FOIL should go. I have learned something from every one of you.

Some taught me patience. Some taught me diplomacy. Some taught me that the answer to a difficult question is sometimes simply to say, "Let's take that away and come back to it." At least one specifically advised me that the safest words in any committee meeting are: "That's an interesting point."

And all of you helped me perfect the art of nodding thoughtfully as I listened.

To all 17 Presidents, I say thank you.

Since 2010, FOIL has become more professional, more connected and more influential. However, I think the most important change has been that we have become more ambitious about what FOIL can achieve. It is clear-eyed and confident about its place in the world now.

And that idea takes me, seamlessly, if I may say so, from looking back and expressing thanks to looking forward and expressing confidence.

As FOIL's next CEO, Mark Huxley is without any doubt a prestigious hire for the organisation. He is a renowned insurance professional who is widely admired and respected not just in the Lloyds and London (re)insurance markets, but in civic circles and in the wider charity world. He has already served FOIL for a number of years as a special advisor to London Market FOIL. I don't think I've ever been in a meeting with him where he hasn't offered a cracking thought or idea to take matters forward. He has a wonderful turn of phrase, and I have come to like him very much as a person as well as appreciating his wise counsel on many different issues.

Some people have said that Mark has big boots to fill but I can assure you that his feet are plenty big enough(!!) and I could not be more certain that Mark is the right person to take FOIL forward from here.

And on that note, I will wrap up and just say again the biggest thank you to everyone who has helped me, including Westy, in this fascinating, challenging, and rewarding role.



Laurence Besemer: Reflections from the FOIL Community

For nearly two decades, Laurence Besemer has been at the heart of FOIL's evolution, guiding the organisation through significant change, expansion and modernisation. As he steps down after 17 years as Chief Executive, members and colleagues across the insurance and legal sectors have reflected on the impact of his leadership and the legacy he leaves behind.

Laurence joined FOIL in 2009 at a pivotal moment in the organisation's development. Over the years, he played a central role in strengthening FOIL's position as an independent and respected voice for insurance lawyers, deepening engagement with government, regulators, insurers and industry stakeholders. Under his leadership, FOIL expanded its reach across multiple insurance classes, broadened its membership to include in-house lawyers, and extended its footprint into new territories, including Ireland. He was instrumental in establishing Tomorrow's FOIL, supporting early-career lawyers and helping shape the future of the profession. Laurence also presided over and/or brought about some major internal restructure with the organisation.

His tenure also saw FOIL navigate major sector shifts—from consolidation within member firms to technological change, commercial pressures and evolving client expectations. Laurence's calm, diplomatic approach and ability to unite diverse viewpoints helped FOIL remain a stable, influential presence throughout periods of reform and uncertainty.

As FOIL enters its next chapter, Mark Huxley has taken over as CEO from 1 October 2026, bringing long-standing experience in the insurance market and familiarity with FOIL's work. Laurence will remain with the organisation until the end of the year to support a smooth transition.

What follows is a collection of reflections from those who worked closely with Laurence over the years—capturing the professionalism, dedication and steady leadership that have defined his time at FOIL.

I was actually involved in appointing Laurence. Back in 2009, I had a 1-year position as Director for Change at FOIL. It followed Henry Birmingham's year as President and the "Big Conversation" that he had with Insurers. We decided we needed a full-time CEO, preferably from the Insurance industry. I even wrote the job description and conducted interviews, along with the then President Anthony Hughes, and the rest is history. **(Claire Mckinney)**

It has been a real pleasure to work with Laurence and witness the impact he has had on FOIL over the past 17 years. His energy, commitment and genuine passion for the organisation have helped shape FOIL into the highly respected voice it is today, and he will be greatly missed by all who have had the privilege of working with him. (**Nicola Critchley)**

Many years ago, I recall a call from Laurence before he took up the role asking about the organisation. I clearly said nothing to discourage him, as 17 years on he has made the role his own, and above all successfully

moved Foil forward, which is no mean feat given the often disparate and competing interests to navigate. This required patience and diplomacy in abundance, which Laurence brought to the table in spades. Thanks to Laurence for all his hard work and dedication. **(Andy Underwood)**

I had the pleasure of being involved in the recruitment process for Laurence all those years ago during what we then described as "The big conversation", which was the beginning of a new era of FOIL. Getting Laurence on board, along with Shirley Denyer, created a stronger and more professional organisation which has flourished ever since…. I hope Laurence enjoys his retirement … **(Anthony Hughes)**

I very much enjoyed working with Laurence in my year as President, which had the usual highs and lows. Laurence was the calm voice of reason, taking all the continual changes coming down from Government in his stride whilst strengthening up the organisation year on year. **(Tim Oliver)**

I enjoyed working with Laurence and have always been impressed by his commitment to FOIL, particularly his ideas on expansion. It is a fact that we had real challenges maintaining revenue in an era when our membership firms were consolidating. Laurence was the driving force behind expansion into other countries and restructuring the fee base. Additionally, he worked hard to establish and grow London Market FOIL as well as the Trade and Industry Partners, all of which have had positive impacts on revenue. He established and grew Tomorrow's FOIL and was instrumental in growing the number and importance of the Sector Focus Teams. FOIL is undoubtedly a much more established and professional organisation than prior to his arrival, and he played a significant role in ensuring that is the case. **(Don Clarke)**

It was a privilege to serve as FOIL President during Laurence's tenure as CEO. Throughout that time, I was always impressed by his unfailing commitment to FOIL, his deep understanding of the insurance and legal sectors, and his ability to bring people together in pursuit of common goals. During what was a particularly busy and important period for civil justice reform, I was especially grateful for Laurence's support, wise counsel and steady leadership, which helped FOIL continue to be a respected and influential voice in the debate.

Laurence has been a constant and influential presence in the organisation's development, and FOIL's success over the last 17 years owes a great deal to his leadership, energy and professionalism. It was a pleasure to work alongside him, and I wish him every success and happiness in the next chapter. (**Pete Allchorne)**

FOIL has been very lucky to have Laurence Besemer. My association with him goes back to his early days at FOIL. He is a very fine leader, and in his time, the organisation has moved consistently and persistently upwards. Always courteous. Always helpful. A great pleasure to work with. **(Tim Wallis)**

I joined FOIL only a couple of years before Laurence was appointed as CEO in 2009 and we've worked together closely since then – finding our feet in FOIL together. He has taken on a multitude of challenges: to extend FOIL's professional reach across the insurance sector; to put it on a firm financial footing; to successfully represent FOIL externally; and to manage the diverse points of view inevitably arising within a membership organisation.

Throughout, he has kept his calm, maintained his good humour and exercised admirable diplomatic skills - doubtless it was not always easy. He leaves FOIL in a much stronger position than in 2009. All best wishes

*Laurence, for whatever is next***. (Shirley Denyer)**

Laurence has been an incredible source of guidance and support to both of us throughout our time at FOIL. His calm leadership, generosity with his time and unwavering commitment to the organisation have shaped so much of what we do. We will particularly miss our lunches at the Wellington Arms! We wish him every happiness in the next chapter. (**Ian Thornhill & Sarah Higgs)**

*I have been fortunate to work with and get to know Laurence through London Market FOIL. His depth of knowledge, professionalism and unwavering commitment to FOIL/London Market FOIL is truly impressive. We have benefitted greatly from his leadership over the years***. (Ling Ong)**

It has been an absolute pleasure working with Laurence down the years from his first venture over to here to build FOIL Ireland in 2019. Laurence has used his experience, enthusiasm and knowledge of all things insurance related to drive FOIL Ireland to be the success which it is today. Laurence will be sadly missed and I wish him all the best in his future endeavours. He has, however, ensured that FOIL Ireland has strong foundations and we look forward to working with Mark Huxley as his replacement. **(Noel Devins)**

I would also like to take this opportunity on behalf of myself and the wider FOIL Northern Ireland group, to relay our gratitude Laurence Besemer for all the work that he has done in his role within FOIL. Laurence has had a crucial role in driving the FOIL agenda in Ireland and we thank him for his involvement and wish him the best. (**Cathal O'Neill)**

During my previous years as chair of the fraud sector focus team and more particularly in the last 11 years as national secretary, I have got to know Laurence as a very receptive and proactive CEO of FOIL. He has managed to expand this organisation to encompass many areas of insurance law and many more jurisdictions. As a fellow Man U supporter, he has managed to bear the last few disastrous years with appropriate dignity! He will be greatly missed. (**Stratos Gatzouris)**

It's being my honour to work alongside and call Laurence a friend for the last dozen or so years. What he has achieved for FOIL will stand the test of time for a very long while. He leaves me a real legacy to follow. **(Mark Huxley)**



A Word from a Sponsor

The Artificial Witness: The Dangers of AI in Witness Preparation



Samantha Jones (Barrister at 39 Essex Chambers)

A new way of working has dawned in the wake of Artificial Intelligence ("AI"). As we all know, using AI tools poses significant benefits and significant risks to lawyers who use them to assist in conducting litigation. The focus of this article is to look at the dangers of using AI in preparing witness statements and preparing witnesses to give evidence in court and to offer practical advice on safeguards for legal practitioners to adopt in litigation when using AI.

Much has already been written about AI hallucinations (outputs generated by AI tools which sound plausible but which are factually incorrect or irrelevant to the context) and the dangers of lawyers failing to check cases generated by AI before including them in court submissions, following the damning judgment of the President of the King's Bench Division in R (on the application of Ayinde) v Haringey LBC [2025] EWHC 1383 (Admin). Readers would do well to review the warning notice published by the SRA on 17 August 2026 on the "Misuse of AI" which is aimed at helping solicitors and law firms understand compliance with their regulatory obligations when using AI, particularly in the context of using false or incorrect information and citations as a result of AI hallucinations, and ensuring they appropriately protect client confidentiality when using AI tools.

However, much less has been written on what steps should be considered in the use of AI in witness statement preparation and in preparing witnesses to give evidence at trial. The Civil Justice Council currently has a working group examining the use of AI by legal representatives in preparing court documents. Their consultation earlier the year noted a consistent theme in 'the importance of preserving the authenticity, integrity and personal recollection of the witness' and that 'concerns have been raised about the potential for AI tools to reshape, embellish or otherwise influence evidence in ways that may not be immediately apparent'.

Two interesting judgments have been handed down this year which address these questions in different contexts: R v FGD [2026] EWCA Crim 918 ("FGD") – a criminal appeal against an order staying proceedings for abuse of process as a result of a complainant using artificial intelligence to prepare for trial; and Godwin (Deceased), Re [2026] EWHC 923 (Ch) ("Godwin") in which the Court was required to decide how a deceased's body should be disposed of and in which the witnesses, both litigants in person, used AI to produce their witness statements.

AI and the Preparation of Witness Statements

Rules 32.2 and 32.4 of the Civil Procedure Rules 1998 ("CPR") provides the general rule that any fact which needs to be proved by the evidence of witnesses is to be proved at trial, by their oral evidence, and a witness statement must contain the evidence that a person will be allowed to give orally. PD32

sets out the requirements for witness statements and, most importantly, paragraph 18.1 states "[t]he witness statement must, if practicable, be in the intended witness's own words."

In Godwin, the High Court considered the reliability of witness statements for the defence that been prepared with the assistance of ChatGPT. It is notable that the parties were unrepresented. The defendant, and his former wife who gave evidence for him, maintained that they had drafted the statements themselves before uploading it to ChatGPT to assist with grammar, spelling and presentation. However, HHJ Klein, sitting as a High Court Judge, concluded that he could not be satisfied that the statements were in the witnesses' own words and concluded that there was no good reason for them to use ChatGPT. As a result, he found that he must approach their evidence with caution.

The decision illustrates that even ostensibly limited AI assistance may raise questions about the authenticity of witness evidence, especially if the parties cannot evidence how the statement was prepared. The risk a party faces is that its evidence may be treated cautiously and may cause them to lose a case.

It also cannot be forgotten that pursuant to Rule 32.14 CPR, any person who makes or causes to be made a false statement in a document, such as a witness statement, can be held in contempt of court. Allowing an AI tool to draft substantial portions of a witness statement could lead to false statements being made or words not being in the witnesses' own words. While the use of AI certainly does not seem to be forbidden, lawyers would be well advised to check and check again the factual evidence is true, not embellished and in the witnesses' own words.

AI and the Preparation of Witnesses Giving Evidence

The prohibition on witness coaching is well-established. In R v Momodou and Limani [2005] EWCA Crim 177, the Court of Appeal confirmed that witnesses may be familiarised with court procedures and the experience of giving evidence but must not be trained or rehearsed in relation to the substance of their evidence.

The dangers of AI-assisted witness preparation were considered in FGD. During a rape trial, it emerged that the complainant had used AI to prepare for cross-examination, generating a summary of their account, anticipated questions and suggested answers. The trial judge concluded that this amounted to impermissible coaching and stayed the proceedings as an abuse of process.

The Court of Appeal overturned the stay, finding that the resulting prejudice could be addressed through ordinary trial safeguards, including cross-examination and appropriate judicial directions. Nevertheless, it emphasised that witness coaching, whether undertaken by AI or otherwise, is prohibited and that witnesses should be firmly discouraged from using AI to prepare their evidence as it could "run the risk of unfairness up to the point, in an extreme case, where the court may have to consider excluding evidence."

The decision highlights a particular difficulty for practitioners: witnesses may independently use AI without their lawyers' knowledge, potentially influencing their recollection or rehearsing answers. The distinction remains between preparing witnesses to give evidence and preparing what they will say.

Practical Safeguards

It is well-recognised that generally, at the moment, the use of AI is not prohibited, and while there are benefits to using AI, especially

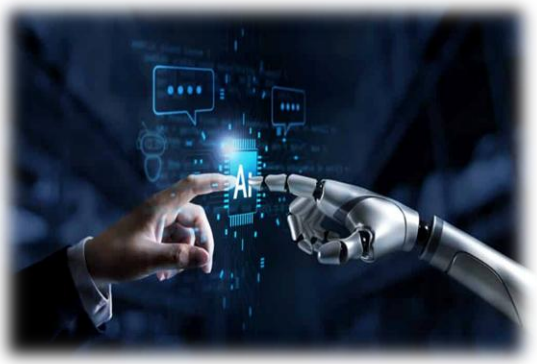
for the unrepresented litigant, everyone and especially legal representatives must take personal responsibility for any document they prepare and submit to court. Where witnesses are represented, I think there will also be a heavy duty placed on lawyers to ensure that witnesses are not taking it upon themselves to be coached by AI.

Some practical safeguards which I take away from the caselaw to date are as follows:

- Ensure that all documents you submit to Court comply with the applicable procedural rules especially in terms of length, content and formatting;
- Check and double check the contents of the statement as far as reasonably possible for accuracy ensuring that factual, evidential and legal points are correct and not fictitious;
- Check that the words used in the witness statement are the witness' own and not embellished, exaggerated or added to by suggestions from AI;
- Check your pleadings and determine the relevant and best evidence that needs to be contained within your witness statement and ensure that only the most relevant points are contained within your statement; don't allow AI to embellish or include irrelevant points that add nothing to the court's determination;
- Ask witnesses whether they have used AI in any way to assist them in preparing their evidence; and if they have, consider whether further investigation needs to be undertaken to establish the veracity of their own evidence;
- In preparing your witness for trial, expressly warn them that they should not use AI to generate suggested lines of examination in chief, cross-examination or rehearse their answers and explain to them the dangers of witness coaching;
- Maintain an appropriate record of how statements have been prepared and what warnings/advice have been given to witnesses in trial preparation. If AI has been used, record exactly what searches have been requested and the output of those searches.

Conclusion

AI may be an increasingly useful litigation tool, but witness evidence is fundamentally different from other litigation documents. The overriding objective must be to preserve the independence and authenticity of the witness's account. It is the lawyer's responsibility to recognise that there are many risks presented by AI when using it both themselves and when witnesses try to use it independently. The risks facing lawyers who inappropriately use AI, particularly wasted costs orders, regulatory proceedings, and appeals or stays for abuse of process, should not be taken lightly.



Witness Coaching and AI: Lessons from R v FGD



Steven Brownlee (FOIL Technical Author)

To ensure testimony remains independent, the courts have always drawn a clear line between witness familiarisation and witness coaching. The former is helping a witness prepare to give evidence. The latter is helping decide what that evidence should be, which has long been prohibited in English law.

The increased prevalence of AI across the legal sector has extended to how a witness might prepare to testify and how, in doing so, might unintentionally cross that line. The recent decision in R v FGD [2026] EWCA Crim 918 represents the first high-ranking appeals court ruling on witnesses using generative AI to prepare.

The Facts of R v FGD

The case involved a rape trial in which the complainant was the sole prosecution witness. The defence counsel requested a full download of the witness's mobile phone to verify her evidence given under cross-examination. In doing so, it came to light that she had used an AI chatbot to prepare ahead of testifying. The court referred to two documents in particular as "the AI documents", which related to her summary of the case and a suggested Q&A of the cross-examination offered by the chatbot to help her "see how strong and consistent" her account was.

When the documents surfaced, defence counsel applied to stay the proceedings as an abuse of process. The Recorder presiding over the first trial at Crown Court worked with prosecuting counsel to establish whether what had happened amounted to witness training or coaching, as opposed to allowable familiarisation. He concluded it was coaching, "whether or not done by AI or someone else". Once this decision was reached, the Recorder felt the damage to the trial was such that a stay of proceedings was the only remedy available, and the trial was halted.

The Court of Appeal's Reasoning

On appeal, the Crown argued that the Recorder had correctly identified witness coaching but was wrong to determine it removed the possibility of a fair trial. The Court of Appeal agreed, reversing the stay and ordering a retrial. The reasoning was that the AI exchanges had been preserved in full and could therefore be put to the witness in a way not always possible with conventional coaching, which was conducted with no record of discussions between coach and witness.

The Court's reasoning drew heavily on R v Momodou and Limani [2005] EWCA Crim 177 as the leading authority in establishing the legal distinction between permissible familiarisation and prohibited coaching. Examples of familiarisation include running through the layout of a courtroom or the general mechanics of the trial procedures. Any examples used must be unrelated to the active case. Witness coaching, on the other hand, risks a witness's evidence moving away from their own account and towards what they have been told will be effective in court.

In R v Momodou and Limani, the Court of Appeal recognised that an honest person could unconsciously shift the emphasis of their story due to the inherent character of human memory. However, a dishonest witness may use coaching to spot weaknesses in their story and calculate how to improve their account. The Court of Appeal in R v FGD held that these risks equally apply when the coaching is delivered by AI. The court asserted that all witnesses “should be firmly discouraged from resorting to the use of AI to prepare for giving evidence”.

A Distinction Beyond Criminal Practice

Although R v FGD arose in criminal proceedings, witness coaching carries the same risks of undermining witness credibility and damaging evidence in civil proceedings. The principle that a witness's evidence must remain their own, uninfluenced account, does not depend on whether the proceedings are civil or criminal.

The ruling in R v FGD comes at a time when debate around the role of AI in preparing evidence continues. The Civil Justice Council (CJC) has been consulting on AI in litigation, and its interim proposal published in February 2026 suggested a mandatory declaration for trial witness statements confirming that AI has not been used to generate or alter the content. The existing requirement under Practice Direction 57AC of the Civil Procedure Rules (CPR) is that statements must be in the witness's own words, something not possible to achieve if AI is used to rephrase, change or embellish someone’s account of events.

Although R v FGD did not revolve around a witness’s formal statement, the underlying concern was that AI-generated material influenced the claimant’s recollection. This is precisely what PD57AC and the CJC's proposals guard against. The High Court's decision in Godwin v Godwin [2026] EWHC (Ch) 923 also scrutinised witness statements prepared with a "digital assistant". In ruling on a family dispute, the judge gave reduced judicial weight to evidence where AI had been used, regardless of how limited that use was claimed to be.

The Evidential Use of AI

One of the more unexpected features of the Court of Appeal's reasoning in overturning the original judge’s stay in R v FGD is its observation that AI-assisted coaching may be more transparent than its traditional counterpart. A conversation between a witness and a coach typically leaves no trace, rendering any details almost impossible to reconstruct. By contrast, a conversation between a witness and AI leaves a digital trail, generating a durable record of exactly what was asked, what was suggested, and what the witness was told.

In R v FGD, it was this record that allowed the Court of Appeal to conclude that the coaching could be properly examined by the jury at a retrial and did not require proceedings to be abandoned altogether.

Where a claimant or witness is suspected of having used AI to prepare their account in a disputed claim, there will be a trail on a device, an account history or a chat log. Practitioners acting in a legal or insurance context should therefore expect broader disclosure requests directed at personal and business devices where AI-assisted coaching is suspected. UAB Business Enterprise & Anor v Oneta Ltd & Ors [2026] EWHC 543 (Ch), a recent case of a witness receiving real-time coaching through smart glasses during cross-examination, highlights how simple disclosure rules can be amended to protect trial integrity if AI is suspected of interference. Both cases highlight how technology that makes coaching easier also makes it more discoverable.

Thoughts for Insurers

R v FGD highlights that claims teams should adapt the approach to witness handling by asking at an early stage if they have used AI to prepare their account. This can be critical where credibility is a potential issue in contested personal injury claims, fraud investigations or liability disputes and avoids discovering the answer mid-trial. Standard client care letters, witness engagement correspondence and evidence-preparation checklists should be updated to specifically address AI use. This will protect the integrity of the witness's evidence and also help manage the insurer's exposure should coaching come to light later and undermine a claim it has already assessed and reserved against.

There is also a professional indemnity question to consider as AI tools become increasingly embedded in everyday life. Inadvertent coaching, where a witness genuinely believes they are simply organising their thoughts, will become more common. Insurers providing PI cover to solicitors should expect R v FGD to be brought up in possible disputes over standards of care in preparing a witness and whether incidents constitute a notifiable circumstance.

Implications for Legal Professionals

The question of if and how a witness has used AI is likely to come up often in future cases where the veracity of witness evidence. Is questioned Taking instructions should include a direct question about AI use in preparing for a statement or for giving evidence, reflecting the approach proposed by the CJC for civil witness statements. Where AI use is discovered, legal professionals will need to consider whether it amounts to permissible familiarisation or strays into coaching, a distinction courts expect.

Advocates should also remain alive to the disclosure opportunities created by R v FGD. Where there are doubts over whether an opposing witness has used AI in preparing their evidence, requesting the underlying chat logs or any documents generated can provide material that can be tested, challenged and put directly to the witness rather than merely alleged in submissions.

The Discussion Continues

R v FGD might prove to be just the tip of the iceberg on AI and witness evidence. The CJC's consultation remains ongoing, with no decisions reached on witness statements and expert reports. Further cases addressing AI-assisted preparation of both witness statements and oral evidence are also inevitable as use of the technology becomes more widespread.

For now, R v FGD confirms the underlying principle that coaching a witness, by whatever means, remains impermissible. A durable AI record, however, may offer the courts a more reliable way of policing incidents. The practical task for insurance and legal professionals is to be prepared by building it into advance witness preparation. The alternative, as is usually the case, is to find out after the trial has already started.

Use of AI by experts: where are the red lines?



Shirley Denyer (FOIL Technical Consultant)

Reliance on technology can be life-enhancing but, as with all events, foul ups attract more attention than successes. Millions use AI to ease their way through life, but the headlines lean towards errant motorists misled by satnav and careless tourists finding themselves in the wrong Santiago. The Law Society Gazette tends to take the same approach – much less focus on the benefits and costs savings achieved by judicious use of AI by lawyers and much more on judicial condemnation of false citations.

It's obviously not just lawyers who are faced with finding the sweet spot in making appropriate use of AI and Technology: experts are working through the same process. As the Master of the Rolls made clear at the Expert Witness Institute's conference in June this year, "If you leave AI behind you will be left behind." Wise words, but of little comfort to the Stanford professor and court expert in Kohls v Ellison in Minnesota who relied upon non-existent academic articles, or the financial expert in the Webber Trust litigation in New York who couldn't explain the basis of his calculations having employed Copilot to do the heavy lifting.

So where are the red lines for experts? How far can they - should they - go in using AI to assist them in preparing expert reports?

In April this year, the CJC consulted on the use of AI for preparing court documents, including expert reports. Experts are often regulated by their own professional bodies and, obviously, they are subject to the CPR, but there are no current rules on what use can be made of AI. The CJC felt the main risks arose from the non-disclosure of AI use, relying upon Kohls v Ellison to highlight the potential for false material to be put before the court, and for non-disclosure to undermine the level playing field between experts.

The CJC proposed that PD35, para 3.3. dealing with the statement of truth used by experts, be amended to add a declaration on AI use. Recognising that an expert's evidence may legitimately include AI generated material, the CJC suggested a mandatory declaration if AI has been used, with details of the tool employed and the use made of it.

In canvassing FOIL members on the proposals, almost all respondents agreed that experts should be able to make use of AI, with a modest majority agreeing with the CJC's proposal for a detailed declaration. It was noted that PD 35, para 3.2(2) already requires experts to give details of materials relied upon in preparing the report; and para 3.2(5) requires the expert to state who has carried out any examination, test or experiment used in the report. However, nearly 40% of FOIL respondents were happy to accept use of AI by experts with no declaration, believing that awareness of the issue had the potential to lead to costly enquiries and satellite litigation.

We await the CJC's final recommendations on the issues but in the meantime 'in house' assistance for experts is available. In February the Academy of Experts published guidance on the use of AI. The paper highlights the fundamental requirement that experts recognise when they are using AI. It highlights the risks: inaccuracies and hallucinations; confidentiality and privilege; the potential for bias. It advises on the risk level of various types of AI usage, from "high-risk" activities such as generating substantive content or material analysis on which the expert's opinion will be based; to "low risk" activities including research, summarising, review of text and administrative tasks.

At the heart of the guidance is that, like lawyers, experts remain ultimately responsible for their work product: they cannot divest responsibility or evade their duties when they

are using AI. Professional oversight is required and AI must not be allowed to replace human judgement.

Instructing lawyers have a role in ensuring the expert evidence they commission is fit for purpose. The Academy's guidance recommends that any high-risk use be disclosed to instructing lawyers, with the use of AI and the impact on the expert's work to be discussed. Experts are encouraged to liaise with their instructing lawyers if an AI tool produces unexpected outcomes, or to 'sense-check' their use of AI. Lawyers are likely to want to ensure their experts understand their duties in the context of AI usage, including issues of confidentiality and privilege; to be made aware when their expert is using AI, the type of tool and the use made of it; to spell out any limitations the lawyers or their clients are placing on that usage; and to ensure the expert is confident of their conclusions, can explain their processes and stand-up to cross-examination.

As in all areas of endeavour, AI is now a permanent feature of litigation: by the parties, their lawyers, the judiciary, and the experts. In his foreword to the Academy of Experts' guidance, Lord Neuberger envisages a time when those not using AI for some areas of work are criticised. The challenge lies in the appropriate drawing of the line, to balance the significant benefits and the significant risks, utilising appropriate guardrails without stifling innovation: an on-going debate in which FOIL will participate fully and ensure its voice is heard.

The CJC's final report on the Use of AI for Preparing Court Documents is now available.

FOIL FORUM OF INSURANCE LAWYERS Informing Progress - Shaping the Future
St John's Buildings



We are proud to announce that St John's Buildings, an award-winning, tier-1 ranked, multidisciplinary set of barristers, has joined the FOIL community as a sponsor. We look forward to building a long and strong relationship with St John's Buildings that supports progress across the insurance law sector.

We are delighted to be supporting FOIL and are excited to have the opportunity to offer our insight, knowledge and support to its members. **Martin Craggs - Senior Clerk (Personal Injury & Clinical Negligence) St John's Buildings**

I am absolutely thrilled to welcome St John's Buildings to FOIL as a long-term sponsor. Their award-winning, tier-1 ranked barristers bring exceptional expertise that will fit seamlessly with the needs of our members and their clients. We look forward to working closely with Martin and his team in the years to come. **Laurence Besemer FOIL CEO**

From Claims Expertise to Expert Witness: Different Roles in Legal Disputes



Adrian Gilbert (Founder, SX3)

In Brief

Drawing on SX3's experience across the claims market, this article explores how independent claims expertise can bring greater objectivity to disputes. It considers the role of independent, specialist assessments in avoiding or supporting litigation, the distinct responsibilities of formal expert evidence and how evidence, market data and benchmarking can inform outcomes.

Working across different claims environments provides an interesting perspective on how legal disputes develop. Through the breadth of SX3's work across the claims market, we regularly see situations where two parties can look at the same underlying activity and reach quite different conclusions about performance, outcomes or what should reasonably have happened.

Often, the issue isn't a lack of information, but how that information is interpreted and, in some cases, the absence of a sufficiently clear measure against which it can be assessed.

A disagreement which is being litigated, or where litigation is contemplated, might concern the performance of an entire claims operation or portfolio, the effectiveness of a delegated claims arrangement, contractual performance, the extent and cause of financial leakage, or decisions made in the handling of a complex, high-value individual claim.

As positions develop, different interpretations can quickly become competing assertions, so establishing what can be supported by the evidence requires a structured examination of the underlying claims activity. Claims files and data, process adherence, contractual requirements, decision-making and financial outcomes can all help reconstruct what happened, understand why and, where appropriate, quantify the consequences. Where the expected standard is less clearly defined, relevant industry benchmarks, market data and established claims practices can provide a useful and additional basis against which performance can be better assessed.

Independence is central to the value of any assessment. The purpose isn't simply to validate the position of the party commissioning it, but to reach a view based on what the evidence supports, even where that challenges some of the assumptions on which the instruction was originally based.

Where that assessment takes place early, when parties recognise that their respective positions are beginning to diverge, it can provide a stronger basis for discussion before those positions become entrenched. The findings may validate concerns, identify a different underlying problem or show that the scale of the disagreement isn't what either party originally believed and, in some circumstances, establishing the position early may be enough to help resolve the issue prior to litigation.

Where litigation is being pursued, a party may require specialist claims analysis to establish whether there is sufficient evidence for continuation. The findings may provide greater confidence in the basis of an action or identify weaknesses that need to be considered as part of the litigation strategy before it progresses further.

SX3 recognises the position changes again when a practitioner is instructed to provide formal expert evidence. Independence remains fundamental, but in this capacity the expert has an overriding duty to assist the court, regardless of which party has instructed or is paying them. The report, declarations and statement of truth reflect those responsibilities, alongside the possibility that the expert may ultimately be required to give evidence in court.

The nature of the instruction also determines the expertise required. Claims is a broad church, encompassing areas such as technical handling, reserving, leakage, delegated authority, operational oversight, contractual performance and complex claims, so the practitioner needs experience directly relevant to the particular issues being examined, as well as the ability to assess them impartially.

SX3's model enables us to draw upon a broad network of experienced claims practitioners and identify specialist expertise according to the nature of the issue. This supports independent investigation and assessment at different stages of a dispute and, where required, provides access to individuals with the appropriate experience to undertake the formal responsibilities of an expert within proceedings.

Across these different circumstances, testing assumptions, establishing what the evidence supports and, wherever possible, quantifying the consequences gives those involved a firmer basis for deciding what happens next.

There is perhaps a broader point here about the value of expertise in disputes, because it shouldn't be measured simply by whether an expert opinion ultimately appears before a court. Its contribution can come much earlier, bringing clarity where expectations are unclear, challenging positions before they become entrenched and providing evidence around which a more informed conversation can take place.

Sometimes that evidence will give a party confidence to proceed with litigation, and sometimes it will help the court determine the issues before it, but there will also be occasions when the strongest evidence leads somewhere else entirely, giving the parties sufficient clarity and common ground to resolve their differences without litigation at all.

In that sense, the real value of independent expertise isn't in supporting a particular outcome, but in helping ensure that whatever outcome follows is better informed by the evidence.

Getting the Best from Your Forensic Engineering Expert: A Practical Guide for Solicitors



Ken Roberts BEng MSc CEng MIET FRGS (Technical Director at forensic engineering and fire investigation specialists, Aurora Insight)

In Brief

Effective collaboration between solicitors and forensic engineering experts is essential to successful litigation. This article explores five practical considerations for obtaining the greatest value from forensic engineering expert evidence, including clear instructions, comprehensive sharing of evidence, proportionate investigations, ongoing dialogue, and the presentation of complex technical issues in plain English.

In litigation involving complex technical issues, judicious use of forensic engineering expert evidence can be pivotal to the outcome of a dispute. Obtaining the most effective contribution from the expert requires more than simply seeking an opinion on technical issues that are often unclear or ill-defined. Carefully considered instructions and effective collaboration between solicitor and expert can materially influence the direction, efficiency and cost of the proceedings.

Drawing on extensive experience of investigating electrical fires and equipment failures, this article examines some of the practical steps solicitors can take to ensure that forensic engineering evidence is obtained, developed and deployed to best effect.

Clearly define the technical issues before issuing instructions

The letter of instruction should set out clearly and succinctly the 'exam question' the forensic engineer is expected to address, together with any supplementary ones. This allows the forensic engineer to determine the nature and extent of the investigative work required, and to then provide a meaningful estimate of fees.

The letter should also outline the nature of the dispute, the chronology of events and identify all the relevant parties and their respective roles. This information should allow the forensic engineering expert to confirm that he or she does not have any conflict of interest, and to be satisfied that he or she has the requisite expertise and experience.

Consider the following example, that of a fire occurring inside an electrical distribution cabinet in a commercial premises. The 'exam question' might be to determine exactly what caused the fire. Was it the result of a defect of manufacture or design of a component fitted in the cabinet, or was it the result of an installation or maintenance issue? Supplementary questions might include when and what make and model of cabinet had been fitted, who installed it, whether the cabinet had been inspected, and if so by whom and when?

Although relatively straightforward, this example illustrates the importance of early dialogue between solicitor and forensic engineering expert, particularly before formal instructions are issued. Such discussions can help ensure that the instructions are sufficiently clear and appropriately focused. They also provide an opportunity to draw upon the parties' different but complementary expertise and experience to establish precisely what is required.

Provide the complete evidential picture

To enable the forensic engineering expert to provide a fully informed and balanced opinion, it is important that they have access to all available evidence. This may include correspondence between the parties, photographs taken before and after the incident, invoices, maintenance and inspection records, and witness statements.

The technical significance of particular evidence may not be immediately apparent to those without specialist engineering knowledge. For example, a seemingly incidental observation in a witness statement could provide invaluable insight into how a fire originated or why equipment failed.

Investigate what matters

Forensic engineering investigations can range from a relatively straightforward review of documents to extensive physical examinations, laboratory testing and specialist analysis. The aim is not simply to establish what investigations are technically possible, but to determine which are necessary and proportionate to the issues in dispute.

This requires a clear investigative strategy, agreed between solicitor and expert, which takes into account the issues to be addressed, the available evidence, the likely value of further enquiries and the costs involved. A staged approach is often appropriate, with an initial assessment informing whether more detailed examination or testing is justified. The scope of an investigation should remain under regular review. Initial investigations may help narrow the issues, identify new lines of enquiry or establish that further work is unlikely to advance the case. Regular dialogue between solicitor and expert allows the investigative strategy to be refined accordingly, and unnecessary expenditure to be avoided.

Keep the forensic engineering expert engaged as the case evolves

An expert report should not bring dialogue between solicitor and forensic engineering expert to an end. New evidence frequently emerges and experts instructed by other parties advance alternative explanations, necessitating review of earlier advice and opinion.

Ongoing dialogue between solicitor and forensic engineering expert need not be onerous. A brief, focused discussion can often achieve more than a protracted exchange of correspondence, particularly when identifying emerging issues, clarifying technical matters or determining whether further work is warranted.

Demystifying technical issues

Forensic engineering disputes frequently involve technical concepts and terminology unfamiliar to those without specialist engineering knowledge. A good forensic engineering expert must be able to explain technical concepts and terminology, and the reasoning underpinning their conclusions, in plain English.

Solicitors should feel comfortable seeking clarification of any technical matter they do not fully understand. A good forensic engineering expert will welcome such questions and be prepared to explain complex issues in different ways, using straightforward language, practical examples or illustrations. This also provides an opportunity to identify ambiguities, address potential misunderstandings and refine how technical findings are presented.

Conclusion

Effective forensic engineering expert evidence is not produced in isolation. It is the product of sound technical judgement, clear instructions and sustained, constructive engagement between solicitor and expert. Getting that relationship right can make the difference between evidence that merely informs a case and evidence that materially advances its resolution.



Voices That Shape Justice



Ling Ong (Partner & London Market FOIL President), Jacqui Bickerton (Market Affairs Specialist) – Weightmans

Why witnesses matter to insurers more than ever

In every insurance claim, there are multiple voices competing to shape the narrative. Claimants, defendants, experts, medical professionals and legal representatives all have a role to play. Yet one voice often remains the most influential and persuasive of all - the witness.

As the civil justice system continues to evolve, insurers are increasingly recognising that effective witness engagement is not simply a litigation issue. It is a strategic claims issue.

The quality of witness evidence can influence reserves, settlement strategy, fraud detection, indemnity decisions and trial outcomes. In many cases, it is the difference between a successful defence and an adverse judgment.

The enduring value of independent evidence

Courts continue to place significant weight on contemporaneous and independent witness evidence. An independent witness can be particularly influential because they have nothing to gain from supporting either party's version of events.

This principle is especially relevant as insurers face increasingly complex claims involving conflicting accounts, delayed reporting, social inflation pressures and organised fraud. While

technology and data analytics provide valuable insights, they rarely replace the evidential value of a credible witness who can explain what happened, when it happened and why.

It is therefore crucial to identify and secure witness evidence at the earliest possible stage. Memories fade, witnesses become harder to locate and opportunities to gather reliable evidence can quickly be lost.

Giving witnesses a better experience

A witness-focused approach is not simply about obtaining evidence. It is about ensuring that witnesses feel informed, supported and engaged throughout the claims and litigation process.

Many individuals are unfamiliar with court proceedings and may be anxious about giving evidence. Delays in communication, complex legal terminology and uncertainty about expectations can undermine confidence and impact the quality of evidence.

It is important to make early contact with key witnesses and explain the purpose and importance of their evidence. The provision of clear guidance on the litigation process will assist the lay witness, whilst maintaining regular communication will allay apprehension.

Technology presents opportunities and challenges

Artificial intelligence is beginning to transform many aspects of the justice system. However, developments in AI also present risks for insurers. The Civil Justice Council's work on AI in legal proceedings has identified witness statements as an area requiring particular scrutiny. Concerns have been raised that AI-assisted drafting could influence or reshape a witness's own recollection, raising questions about authenticity and reliability.

Whilst technology can support evidence gathering and case management, it must not undermine the integrity of witness testimony. The witness's own voice remains paramount.

Witnesses and the fight against fraud

Witness evidence also plays a vital role in counter-fraud activity.

As organised fraud becomes more sophisticated, insurers are increasingly concerned about manipulated digital evidence, social media activity and AI-generated content. Independent witnesses can provide an important counterbalance to such issues. Their testimony can corroborate genuine claims, expose inconsistencies or challenge fabricated accounts.

In an environment where deepfakes, synthetic identities and AI-generated content are becoming more prevalent, authentic human evidence may become even more valuable.

Conclusion

The insurance market is entering a period in which witness evidence may become simultaneously more important and more difficult to assess. Remote hearings, AI-assisted drafting tools, digital communications and evolving expectations around access to justice are reshaping the litigation landscape.

Investing in early evidence capture, improving witness engagement, understanding emerging technological risks and ensuring that the authenticity of witness evidence remains central to claims strategy.

In an increasingly digital world, the most persuasive voice in the room may still be the human one.

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Witness Evidence in a Changing Northern Ireland Litigation Landscape



Cathal O'Neill (Carson McDowell LLP and Chair of FOIL NI)

Witnesses Remain at the Heart of the Case

Civil litigation may increasingly rely on electronic bundles, remote hearings and digital evidence, but the outcome of many cases still turns on evidence given by witnesses to the court.

Recent developments in Northern Ireland point in a clear direction: earlier identification of the pertinent issues, stronger evidence, greater transparency and closer scrutiny of how evidence, including expert evidence, is produced.

A New Framework for Personal Injury Litigation

The recently introduced Practice Direction 04/2026 represents an important development. It applies to personal injury and damage only actions in the King's Bench Division of the High Court and took effect on 13 October 2026, replacing Practice Direction 01/2008 and the former Personal Injury Pre-Action Protocol.

Its objectives are particularly relevant to witnesses. The Practice Direction promotes early communication and investigation, earlier exchange of sufficient information, and a "cards on the table" approach intended to reduce unnecessary expenditure of money, time and stress while preserving fairness. It also reinforces the principle that litigation should be a last resort. Consequently, this places greater emphasis on establishing the evidence at an early stage and identifying the genuine factual disputes.

For defendant insurers, early investigation should therefore include identifying witnesses while recollections remain reasonably fresh, securing relevant documentary and digital material, and testing whether the initial account is consistent with the evidence later disclosed.

The Expert as Witness

Expert evidence receives particular attention under the new regime. The Practice Direction emphasises expert independence and requires practitioners to consider whether particular expert evidence is necessary and appropriate, not least because it may represent a substantial proportion of the cost of personal injury litigation. The new Practice Direction also directs parties to have regard to the Guidance for the Instruction of Experts in Civil Claims in the High Court.

The prescribed template letter of instruction requires an expert report to identify the material relied upon, distinguish matters within the expert's own knowledge, address any range of professional opinion, explain the

reasons for the opinion reached and confirm the expert's understanding of the duty owed to the court.

The provisions concerning expert meetings are equally significant. Experts in the same discipline may be required to meet without legal representatives present and to prepare an agreed 'Scott Schedule' identifying the areas of agreement and disagreement, together with the reasons for any disagreement.

For insurers, this may provide an important means of narrowing medical, engineering or quantum disputes before trial.

The AI Question: Who Really Wrote the Evidence?

Alongside these procedural changes sits a newer challenge in the form of generative artificial intelligence.

AI can produce apparently convincing statements, chronologies, summaries and reports in seconds. That capability creates obvious efficiencies, but witness evidence raises a fundamentally different issue. The integrity of the evidence requires a clear distinction between a witness's actual recollection or knowledge, or an expert's professional opinion, and material generated or materially reshaped by technology.

The concern is amplified for expert witnesses. An expert who relies uncritically on AI-generated analysis risks obscuring the reasoning behind the opinion. That sits uneasily with the Practice Direction's emphasis on expert independence and its requirement that reports identify the facts, instructions, literature and other material on which opinions are based.

Practical Implications for Insurers and Practitioners

For those handling Northern Ireland claims, several practical safeguards follow. Witness evidence should be obtained early and, wherever possible, checked against contemporaneous documents before accounts are influenced by later information.

Experts should remain responsible for every opinion expressed in their reports. The instructing lawyer should be satisfied that the reasoning is genuinely the expert's and that the evidential and professional basis for the opinion can be explained if challenged.

Document management is also important. The Practice Direction requires solicitors and counsel to sift the available material and produce a manageable, properly paginated core bundle, avoiding excessive and unnecessary documentation. In an era when AI can generate large quantities of superficially relevant material, that discipline may become more, rather than less, important.

Conclusion

Technology is changing the mechanics of litigation, but not the fundamental purpose of witness evidence. The question for the court remains a human one: what does this witness actually know or remember and, in the case of an expert, independently conclude?

Northern Ireland's new personal injury Practice Direction reinforces early investigation, focused evidence and expert independence. For insurers and practitioners, AI also offers significant opportunities but also real risks. Used properly, technology can help organise evidence, identify issues and improve efficiency. Used without appropriate safeguards, it can blur the line between a witness's evidence and a machine's reconstruction.

TOMORROW'S FOIL
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Olivia McGuigan, Tomorrow's FOIL President (DWF)

Over the past few months, the Tomorrow's FOIL Executive Committee has been working on a number of new ideas and initiatives, particularly focusing on how we can better engage and support those at the beginning of their careers.

With that in mind, we're really looking forward to our upcoming panel event on 4 November 2026, 'The Insurance Law Career Journey: Real Stories, Real Advice.' The event has been designed with trainees, paralegals and junior associates in mind, and aims to provide a practical and honest insight into the different routes and experiences that can shape a career in insurance law.

The discussion will be hosted by Dr Jeffrey Wale, FOIL Technical Director, and features a fantastic panel of experienced lawyers and insurance professionals. The event is intended to be an open discussion, allowing audience members to ask questions in an approachable setting. As well as hearing their perspectives and advice, attendees will have the opportunity to speak with the panel after the event, making it a great chance to ask questions and build connections. The event is taking place at 39 Essex Chambers, and it is one that I am personally very much looking forward to.

One of the topics I am particularly interested to hear about is the growing role of artificial intelligence within the legal profession, as well as the increasing importance of professional visibility in a world shaped by social media and technology. These developments are having a significant impact on the way we work and are likely to continue doing so for the foreseeable future.

Artificial intelligence is also a topic that remains firmly on our radar more generally. Committee members have previously and continue to raise issues they have encountered relating to use of AI by Litigants in Person. While AI brings many potential benefits, it can also create additional challenges around accuracy, verification and case management, as we have seen in examples across the wider courts where reliance on inaccurate AI-generated content has led to difficulties. AI-assisted claims continue to present new and evolving challenges for insurers, practitioners, and particularly junior members of the industry who are navigating these issues at the start of their careers.

Given the pace at which these issues are developing, we are also continuing to think about how Tomorrow's FOIL can help support members and the wider network of those early in their careers. We hope to continue to develop and plan events and discussions around these topics, to offer a forum for practical guidance and an opportunity to

engage these issues. This will remain an important focus for the Committee.

We also have the FOIL AGM coming up shortly, which I will be recording a contribution for as I am not able to make it in person (one of the benefits of our increasingly virtual focused world!). I look forward to hearing about the discussions and developments from the event and hope it is a great success.

Please feel free to share the following invite for the panel event with colleagues, your wider network, and anyone you think may be interested.

If you haven't already, please also follow the Tomorrow's FOIL Instagram and LinkedIn accounts to stay up to date with the latest news.

Tomorrow's FOIL LinkedIn; Tomorrow's FOIL Instagram

Finally, on a personal note and on behalf of the Tomorrow's FOIL Executive Committee as a whole, I would like to thank Laurence Besemer for his continued support, guidance and work on Tomorrow's FOIL and of course within the wider FOIL network. It has been greatly appreciated, and we wish him all the best. I would also like to welcome Mark Huxley and very much look forward to working with him going forward.

Building Careers in Law



Wednesday 4 November 2026 - 2:00pm

39 Essex Chambers, 81 Chancery Lane, London, WC2A 1DD

We are pleased to invite you to **The Insurance Law Career Journey: Real Stories, Real Advice** — a supportive, insight rich session designed to empower early career lawyers as they shape their futures in insurance law.

This event offers candid, practical guidance rarely shared in formal settings, with insight drawn directly from practitioners who've already walked the path.

The session will be a conversational, honest discussion rather than a series of presentations, featuring:

• Panel Discussion

• Audience Q&A

• Opportunity to speak to the panel after the discussion

This session will appeal to Trainees, NQs, junior associates, and anyone in the early stages of building a career in insurance law who would benefit from practical, experience-based insight.

Please register **here.**

Operations Update



Ian Thornhill (FOIL Operations Manager)

FOIL's digital presence continues to strengthen across all platforms, with steady growth and consistent engagement. The main FOIL LinkedIn account has now reached 1,608 followers, supported by a busy feed showcasing member insights, event highlights, charity activity, and sector awareness days such as World Mental Health Day.

The London Market FOIL page has also progressed, rising to 107 followers, while Tomorrow's FOIL has increased from 114 to 126 followers, driven by promotion of the upcoming November panel event at 39 Essex Chambers. In addition, a new Tomorrow's FOIL Instagram account has been launched and will be developed further as part of our wider digital engagement strategy.

Since the last edition, FOIL has delivered a varied programme of events. The FOIL–Airmic joint event in Dublin brought together speakers from both organisations, with Michael Murphy (Holmes) addressing discovery, DSARs, data breaches and cyber incidents, and Royston Ford (Intact) exploring supply chain risk and geopolitical uncertainty across Europe.

At 39 Essex Chambers, the Sports SFT "Beyond the Touchline" session attracted 40 attendees from 64 registrations, with contributions from Arthur Fane (Miller Group), Russell Norris (McLarens), Spencer Turner (39 Essex), and panel host Imogen Mitchell Webb (HF). Feedback was extremely positive, and a write up has been circulated.

FOIL Ireland hosted an online session on Lay Litigants on 20 October, featuring Justice Michael Peart, who discussed the increasing challenges posed by lay litigants and how to manage these issues without compromising fairness. The event drew 68 attendees, and the recording will shortly be available on the FOIL website.

Unfortunately, the Conflict Management in Retail & Hospitality session scheduled for 27 October at Weightmans Birmingham had to be cancelled due to low registrations. This will now be re-run as a fireside chat, with further details to follow.

Looking ahead, FOIL and Tomorrow's FOIL have a busy programme.

Tomorrow's FOIL will host The Insurance Law Career Journey: Real Stories, Real Advice, chaired by Jeff and featuring a panel including David Mayor, Nicola Critchley, Toby Vallance, Tatiana Dall, and Daniel Laking (39 Essex Chambers).

FOIL will also partner with the Academy of Experts for Navigating the Expert Witness Arena on 2 December at the Law Society of Northern Ireland.

Finally, preparations are underway for the FOIL AGM and Conference on 24 November at Browne Jacobson in London.

FOIL continues to expand its digital reach, and readers are encouraged to follow and engage with our social channels: **FOIL LinkedIn**; **London Market FOIL LinkedIn**; **Tomorrow's FOIL LinkedIn**; **Tomorrow's FOIL Instagram**

A 60 Second Interview with Neil Garrett (Verisk)

Neil Garrett is Chief Commercial Officer at Verisk.

Which experience early in your career shaped the way you think about leadership and commercial strategy in the insurance market?

Starting out in sales management taught me to lead decisively while remaining open-minded and adaptable. You won't always learn everything through planning alone, and progress often comes from having the confidence to take the first step, learn as you go and adapt your approach along the way.

The same applies to commercial strategy. Having a clear direction is important, but equally important is recognising when something isn't working and having the confidence to change course. Strategy should continually evolve as you learn from both successes and failures, with valuable insights to be gained from both.

What motivates you most about working at the intersection of data, technology and insurance – and how do you stay inspired in such a fast-moving landscape?

Working at the intersection of data and technology within insurance is highly motivating as it gives you a unique, connected view of the entire ecosystem. Our products are embedded across the full insurance lifecycle, providing insight into how different parts connect, how they're changing, and how developments in one area can create opportunities in another.

The fast pace of the industry is what keeps me inspired. New trends, applications, and business challenges are constantly emerging, creating new opportunities to connect the dots and find new ways to deliver value for businesses.

How does the relationship between insurance and litigation influence Verisk's innovation strategy?

The relationship between insurers and the legal industry is highly interconnected, and that plays an important role in how we innovate. Working closely across both markets gives us a broader, holistic understanding of their shared and individual challenges, helping us identify where our technology can have the greatest impact.

Our strong presence in the personal injury market brings us close to insurers and law firms due to the significant role litigation plays in injury claims. This gives us insight into challenges ranging from claim portal delays to evolving fraud tactics, which we use to refine our products, develop new technology and help claims progress more efficiently within both industries.

How can organisations use data and analytics to spot risks early instead of just reacting?

Insights from data and analytics can be used to proactively identify signals and minimise risks. Using extensive datasets, combined with real-time information, can help organisations identify emerging risks, recognise patterns that may otherwise be missed, and make more informed decisions.

In personal injury, our data can support more effective case triage, enabling proactive prioritisation of higher-risk or more complex cases. By intervening earlier, claim handlers can focus their attention where it's needed the most, supporting better outcomes for consumers.

How is Verisk helping organisations accelerate innovation?

Verisk provides organisations with vast datasets, advanced insights and market-leading technology, giving them a strong foundation for turning ideas and ambitions into practical business strategies. Our capabilities, from AI and automation to claims management systems, can be incorporated into existing operations to accelerate decision-making, enhance processes and reduce manual effort. This frees up capacity, enabling organisations to focus their people and resources on implementing strategic priorities and creating greater business value.

Trade & Industry Spotlight



A National Network of Specialist Expertise Strengthening the Defendant Sector

FOIL's Trade & Industry Partners represent one of the most diverse and highly skilled communities operating across the insurance and defendant landscape. Each partner brings specialist knowledge, technical capability and sector leading insight that enhances FOIL's mission to support informed, confident and collaborative defendant practice.

Together, they form a powerful ecosystem of expert services — from forensic accounting and engineering to mediation, loss adjusting, medico legal consultancy and specialist advisory support. Their work underpins the quality, accuracy and efficiency of claims handling, litigation, and dispute resolution across the UK and Ireland.

A Snapshot of the Expertise Within FOIL's Partner Community

Mediation & Dispute Resolution

Trust Mediation provides specialist personal injury and clinical negligence mediation, helping parties resolve complex disputes with independence and sensitivity.

Forensic Engineering & Investigation

Aurora Insight delivers forensic engineering, fire investigation and expert witness services, supporting insurers and legal teams with technical clarity in high-stakes cases.

Employment & Tribunal Expertise

Trevor Gilbert & Associates are recognised leaders in employment expert witness services, advising on personal injury, clinical negligence, child abuse, matrimonial matters and tribunal proceedings.

Claims Solutions & Consulting

Davies Group offers a comprehensive suite of claims, insurance, consulting and legal solutions, supporting insurers and compensators with operational excellence.

Forensic Accounting Specialists

Forths, Toppings, Baker Tilly, MDD and S&W collectively bring deep expertise in personal injury, clinical negligence, fraud, commercial disputes, valuations and economic damage quantification. Their work provides the financial accuracy that underpins fair and robust outcomes.

Independent Claims Consultancy

SX3 Claims Limited supports insurers with independent claims consultancy, auditing, reviews and resource solutions.

Business Advisory & Mentoring

Huxley Advisory offers mentoring and business consultancy, helping organisations strengthen leadership, strategy and operational performance.

Loss Adjusting & Risk Management

McLarens and QuestGates deliver specialist loss adjusting, forensic accounting, aviation risk management and claims solutions across the UK and Ireland.

Legal Liability & Property Investigation

The Quest Partnership provides investigation and claims management across all liability classes, supporting insurers with clear, evidence-based insight.

Digital Claims Resolution

Nuvalaw offers a neutral, data driven platform that helps insurers, claimant firms and TPAs streamline and modernise the claims resolution process.

Insurance Expert Witness Services

Jervis ICI brings over 45 years of market experience in underwriting and claims, specialising in liability, marine and energy insurance, policy avoidance, non-disclosure and misrepresentation.

Medico Legal Expert Witness Services

Somek & Associates is one of the UK's largest and most trusted providers of independent medico legal experts, supporting a national network of more than 300 clinicians who deliver impartial, high-quality evidence.

Strengthening the Defendant Sector Through Collaboration

FOIL's Trade & Industry Partners play a vital role in shaping a modern, informed and resilient defendant community. Their expertise supports FOIL members — lawyers, insurers and compensators — with:

- specialist technical insight
- independent expert evidence
- operational and strategic support
- innovative digital solutions
- trusted advisory services

This collective capability ensures that FOIL continues to champion best practice, sector understanding and collaborative progress across the insurance and legal landscape.

A Growing Community of Excellence

As FOIL expands its associate membership category for Trade & Industry Partners, we continue to welcome organisations whose work strengthens the defendant focus of FOIL's mission. Each partner enhances the breadth of knowledge available to our members and contributes to a thriving, connected professional community. For further details of our Trade & Industry Partners, click on this link.

FOIL in the Media



FOIL members regularly contribute to external media publications. Here are the contributions from the last quarter:

Bridget Tatham, FOIL President, of Browne Jacobson discussed an APIL report highlighting the growing justice gap in the **Law Society Gazette**. (24 July 2026)

Lauren France and Craig Budworth, FOIL Members, of DWF were featured in **Insurance Day** on the topic of how AI is changing the nature of insurance fraud. (11 August 2026)

Andrew Lothian, FOIL member, of DWF discussed the insurance implications of Ed Sheeran failing to insure his Aston Martin in **Insurance Post**. (8 September 2026)

The appointment of Mark Huxley as FOIL's new CEO was covered as follows:

- **Insurance Post** (8 September 2026)
- **Insurtech News** (8 September 2026)
- **The Managing General Agents' Association** (8 September 2026)
- **Global Legal Post.** (9 September 2026)
- **Alta World** (9 September 2026)
- **Global Risk Manager** (9 September 2026)
- **Insurance Business** (9 September 2026)
- **Insurance Times** (9 September 2026)
- **Solicitors Journal** (10 September 2026)
- **Reinsurance News** (14 September 2026)
- **Insurance Edge** (14 September 2026)

Steven Brownlee, FOIL Technical Author was featured in **Insurance Day**, discussing collective redress as an emerging insurance risk as part of FOIL's series with the publication. (9 September 2026)

Emma Fuller, Motor SFT, of DAC Beachcroft discussed the UK pothole crisis following summer heatwaves in **Insurance Business**.(16 September 2026)

Fleet World also featured comments from **Emma Fuller** on the UK pothole crisis following the summer heatwaves. (16 September 2026)

William Balfry, Motor SFT, of DWF was featured in **Insurance Post** with an article on whether insurers are ready for autonomous vehicle crashes. (17 September 2026)

Chris Fletcher, Sport and Disease SFTs, of Clyde & Co and Lynsey Barrow, of Clyde & Co discussed the insurance risks of discrimination in sport in **Modern Insurance Magazine**. (17 September 2026).

Interested in writing for the VOICE?

We rely on contributions from our members, sponsors, trade partners, and others to produce each issue of the Voice. We are also interested in learning what subjects or themes you would like to see covered in the future. If you are interested in contributing material to a future edition of the Voice or have any ideas for content, please feel free to contact info@foil.org.uk or any of the editors.


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