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

SPOTLIGHT

In this edition, we explore the privatisation of justice, the use of apologies in serious injury claims and the benefits of collaboration and information sharing in the reform agenda

Publisher

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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

Welcome to the February 2024 edition.

Jeffrey Wale (Assistant Editor and FOIL Technical Director)

Welcome to the February edition of the Voice. I would like to express thanks to Leigh Shelmerdine, for her work in coordinating many of the articles that appear in this edition and to our various contributors. FOIL relies on the support of our members to develop and improve its publications and to facilitate timely responses to a large number of media requests for copy. You have only to look at the FOIL in the media section of this edition to appreciate the scope of the work being undertaken by members to support this effort.

In this edition, we extend a warm welcome to the new FOIL President, Peter Allchorne and the other postholders on the National Committee (see page 27). We learn more about Pete's priorities and aims for FOIL in 2024, including a focus on the privatisation of civil justice. We also welcome Ian Thornhill as the new FOIL Operations Manager. One of Ian's priorities will be to refresh the FOIL website and general engagement on social media platforms.

We started the year as we finished, with a flurry of activity and numerous consultations already in the pipeline. The Damages Claims Portal (the DCP) continues to cause challenges for members, with the added complexity of a parallel early adopter rollout of new functionality across 16 courts in England and Wales. With the pending promise of general application functionality in the DCP, it is already evident that members need to be flexible in adapting to this new landscape. There is also the need to adapt to multiple online processes and speeds of working. Those implementing these platforms are showing a clear desire to resolve online disputes at a much faster pace than in the offline world. This makes it imperative that insurers have good systems in place to investigate and make early decisions on claims. The ability of FOIL members to share experiences and lobby with a consolidated voice is a valuable tool for driving change and ensuring that the voice of the defendant community continues to be heard in this arena.

We are excited to have a guest contribution from Michael White, Head Of Complex Liability (UK) at Zurich Insurance. Michael reflects on his 30+ years in the insurance industry and considers the benefits of collaboration and information sharing in the ongoing reform agenda, especially in the serious injury arena.

Many of you will be aware that the *Guide to the Conduct of Cases Involving Serious Injury* (**the Serious Injury Guide (SIG)**) was developed following years of collaborative work between APIL, FOIL and various major insurers. One topical example of this collaboration is evidenced by the joint APIL/FOIL article discussing the use and value of apologies in this space. As the SIG steering committee continue to reflect on the guide, we need to understand how the guide is being used and how we might improve its effectiveness as a tool to support collaboration between lawyers and insurers in serious injury claims. FOIL would ask for your help to promote the annual SIG survey within your organisations. You can access the survey using the following link: Serious Injury Guide. Responses are due by 4 March 2024.

In the previous edition of the VOICE, we reflected on the important work being undertaken by our Sector Focus Teams (SFTs). If you would like to get involved in the work of these SFTs, do have a look at the vacancies that are regularly advertised on the FOIL website.

I hope that you enjoy reading the content and look forward to receiving your ideas and contributions for the next edition.

The President's Page

Pete Allchorne, FOIL President

Welcome to the first edition of the Voice for 2024. Last year proved to be a busy year for FOIL member firms and the wider insurance industry with the implementation of the extended Fixed Recoverable Costs regime in England & Wales – the biggest change to civil justice in more than a decade. And this year promises to be no exception, with a packed agenda that will, amongst other things, shape injury claims from 'volume' to 'value'. If you haven't yet had the opportunity to review the 'FOIL Focus' for 2024, you can access this here or via the FOIL website.

2024 will see the commencement of the Personal Injury Discount Rate (PIDR) reviews in all three UK jurisdictions. At the time of writing, we are less than three weeks into the new year and we have already seen the latest call for evidence from the Ministry of Justice, seeking evidence to assist the Expert Panel in advising the Lord Chancellor on the setting of the rate in England & Wales. Amongst other things, the MoJ is seeking evidence as to how claimants actually invest lump sum awards and the impact of taxes and expenses payable on those investments. FOIL will be hosting a stakeholder event to help inform a response on behalf of its members.

February will see the OIC mixed injuries litigation finally reach the Supreme Court. This will give much needed finality to the method of calculation of the non-tariff element of a low value injury featuring a whiplash component.

The issue of claims inflation will remain an ongoing theme across all UK jurisdictions during the early months of 2024, with the recent effects of stubbornly high inflation anticipated to impact both the seventeenth edition of the Judicial College Guidelines for the assessment of general damages in personal injury cases in England & Wales, and the Green Book in Northern Ireland.

We will also see the MoJ review of the OIC tariff before the end of May, as is required by the Civil Liability Act 2018, and FOIL will continue to work closely with the ABI and other relevant industry stakeholders to help preserve the intentions of the whiplash reforms and ensure that any inflationary increase in the tariff amounts do not result in a proportion of simple claims tipping over into a costs bearing claims environment.

With active Sector Focus Teams bringing together subject matter experts across a wide range of practice areas, FOIL remains in a unique position to look behind the headlines and help inform the debate on market and reform issues during the year ahead – be that exploring the merits of a low value RTA claims portal in Scotland, monitoring the behaviours arising from the extension of the Fixed Recoverable Costs regime in England & Wales, supporting the market on the development of the Damages Claims Portal, or engaging with the Automated Vehicles Bill as it makes its way through parliament.

FOIL is also well placed to assist with horizon issues such as the development of (Alternative) Dispute Resolution in

anticipation of the advancement of new digital Pre-Action Protocols, as per the recommendations of the Civil Justice Council. FOIL intends to hold a speaker event focusing on the role of the private sector in the delivery of the vision, and there is more information below.

In addition to the technical agenda, FOIL is committed to advancing the talent agenda during 2024 through 'Tomorrow's FOIL' as well as championing Justice, Equality, Diversity and Inclusion agenda, starting with a stakeholder event on 8th February.

Finally, 2024 will see FOIL engage with its members and industry stakeholders in different ways, including a renewed focus on the use of social media channels to deliver our excellent content to a wider audience.

I am privileged to have the opportunity to lead FOIL during the busy year ahead, and look forward to working with you all. Be it engaging with our Sector Focus Teams or attending a stakeholder event, please do encourage your colleagues to get involved.

New FOIL Sponsor

NINESTJOHNSTREET

FOIL has agreed a new sponsorship relationship with 9 St John Street Chambers ('Number 9'). We look forward to cementing a close working relationship with Chambers.

Tony Morrissey, Director of Clerking says:

"*9 St John Street ('Number 9') is a leading Chambers based in Manchester with a strong defendant personal injury team. We are widely renowned for our exceptionally high standards of advocacy, advisory and mediation services. Our clerks are responsive and client-focused in helping our barristers provide the best and most cost-effective service for insurers and solicitors.*

Whilst proud of our traditions in the North, we retain national focus, and our barristers regularly appear in Courts across the UK including Appellate Courts and the Supreme Court."

Laurence Besemer CEO of FOIL says:

"*This arrangement will serve to strengthen the already strong ties between chambers and FOIL members, and we look forward to welcoming barristers from this set to various events in the coming years.*"

The Privatisation of Justice

In Brief

- Dwinding claims vs court backlogs
- Delivering just outcomes without State resources
- Dispute resolution through non judicial means

Peter Allchorne (Partner, DAC Beachcroft Claims Ltd and FOIL President) and Shirley Denyer (FOIL Technical Consultant)

Whether you're handling claims in a FOIL member firm or as an insurer, it will have been inescapable over recent years that the volumes of claims which are issued and those which proceed to trial have been reducing. In fact, the pattern has been the same over a long period. Professor Hazel Genn spoke in 2012 of the "*wholesale shift in the resolution of civil (and family) disputes out of the public realm"* and since then your personal experience will probably have demonstrated the same trend. Perhaps your lower value EL claim is now handled in the portal, or your whiplash claim is in the OIC? Perhaps your clinical negligence dispute is being resolved by ADR in line with NHS R policy aims, or you've noticed you're more likely to attend a JSM than a trial? You're not alone.

Whichever party forms a government in 2024, the lack of available funding for the justice sector will remain an issue. Despite the reduced numbers of issued claims and dwindling trial volumes, there are significant county court backlogs. After an extensive programme of court closures, the MOJ is still struggling to address the poor condition of the court estate. It's unsurprising that delivering civil justice without the need for state resources is an attractive prospect.

There is an increasing amount of noise in the industry surrounding alternative methods of Dispute Resolution as a means of delivering justice quicker and more efficiently. In 2021 the CJC considered the question of whether parties to a civil dispute could be compelled to participate in an ADR process. The working group noted that the OIC is an existing example of compulsory mediation and concluded that "*Introducing further compulsory elements of ADR will be both legal and potentially an extremely positive development*". The recent CA case of *Churchill v Merthyr Tydfil County Borough Council* has confirmed that finding, holding that the court can order the parties to engage in a non-court-based dispute resolution process. It's worth noting that not only were several heavyweight organisations allowed to intervene in the case in the light of its importance to civil justice (including the Law Society and the Bar Council), but the decision came from the top, from a Court of Appeal made up of the Master of the Rolls, Sir Geoffrey Vos; the Lady Chief Justice, Lady Carr; and the Deputy Head of Civil Justice, Lord Justice Birss.

The MOJ is also moving in the same direction. It's set to introduce compulsory mediation in claims worth up to £10,000 in 2024 and has made a commitment to integrate mediation into higher value, complex claims, which will require the engagement of third-party providers. The Civil Justice Council's recent report, in August last year, into the role of pre-action protocols (PAPs), proposes the mandating of some form of dispute resolution process before proceedings can be issued.

In respect of litigated claims, the advent of the Online Procedure Rules Committee is testament to the MOJ's intention to

modernise the civil justice system and embrace the benefits that new technologies such as AI (including generative AI) will have to offer in the administration of justice. The CJC's recommendations on the PAPs place much more emphasis on the pre-action stage of civil justice, with the extension of digitalisation into the pre-action space (and the potential value of that to litigants) seen as "*beyond dispute*". Recognising that government funds are limited, the CJC sees a role for private portals to assist parties to meet their pre-action obligations which, if court proceedings are required as a last resort, can engage seamlessly with HMCTS.

As part of its review of the PAPs the CJC has also considered the issue of costs pre-issue. Its Interim Report set out proposals for a new summary costs procedure, separate from Part 8, to resolve costs disputes where the substantive aspect of the dispute has been settled pre-issue. The proposals focus on the assessment of costs, with recoverability seen as a matter for the CJC costs working group. The question of when a legal dispute first arises and from what point costs should be recoverable were felt to be beyond the scope of a group reviewing the PAPs, but the discussion in the Interim Report raises the possibility of courts getting involved in the award of costs in claims settled pre-litigation, with intervention not limited (as at present) to issues of quantum where the parties have already agreed that one party is liable to pay costs. Although, at this stage, the CJC does not recommend a general provision which would allow a court to award costs pre-issue, it is not inconceivable that that will become a feature of civil justice in the future, as more and more emphasis is placed on pre-issue settlement.

Seen together, these proposed and potential reforms represent a significant shift towards resolution of disputes through non-judicial means. It is important that FOIL members and their clients are involved in the shaping and development of this potential new civil justice regime. FOIL has always sought to look behind the headlines and it is therefore important to give due consideration to horizon issues that are nascent but which will impact the industry in the years ahead.

At the recent FOIL President's conference hosted by Nicola Critchley, Steven Jarman of the MOJ spoke about the MOJ's focus on digitalisation and change, and positively encouraged industry stakeholders to get involved and make their voices heard. FOIL also has excellent links with the CJC, the judiciary and industry bodies and is well-positioned to inform the debate.

As a start to this initiative, we are proposing to hold an initial event, with an open invitation to FOIL members and insurers to hear from expert speakers and share views. Further details will be published shortly. I hope we will have the opportunity to hear your thoughts in due course.

On the benefits of collaboration and information sharing as we move through reform

Michael L. White FCII (Head Of Complex Liability (UK) Zurich Insurance)

In Brief

- The role of costs and process in driving claimant behaviours.
- The challenges presented by an adversarial system of justice
- The benefits of collaboration and information sharing in relation to claims and the reform agenda.

This year I will celebrate having worked in the insurance industry for 31 years and dealing with liability claims for all of that time. Equally, I have proudly spent all of it with Zurich. Over that period, I have seen an enormous amount of change in the handling of personal injury claims, which I have spent the vast majority of my career working in and for many years, handling and managing those of the utmost severity. This article is therefore weighted more toward those.

Those of us of my vintage will recall (with limited fondness I hope) the days of claims handling and litigation before the Civil Procedure Rules (CPR), when trench warfare between the parties was the norm and quite often defendants were ambushed with previously unseen evidence served with legal proceedings, with often minimal engagement from the plaintiff's (as they were then known) solicitors following the initial presentation of a claim.

Along came the CPR in 1999 and importantly, the pre-action protocol (PAP) for personal injury claims. These developments heralded a brighter future, with promises of a more consensual approach between the parties, sanctions for non-compliance with the PAP and importantly, a view to reduced litigation and lower costs, with proportionality to rule the day.

Whilst there have been some undeniable improvements as a result and other progressive steps since then, namely the first moves to fixing claimants' costs (way back in 2003 for RTA claims, as I recall), before the introduction of low value processes for most Motor, EL and PL claims in the early 2010s, what we have seen nonetheless is the continued attempts by claimants' solicitors to inflate costs and drive up the values of personal injury claims, to the point that we now see very creative schedules of loss, leaving aside the impact of claims inflation,

which has been particularly acute in recent times.

Whilst it is absolutely right that claimants receive fair, just and reasonable compensation where a liability is established, the boundaries in personal injury claims of all stripes and values have nonetheless been pushed relentlessly ever since the CPR was introduced and with every development thereafter. This article does not focus on decisions relating to damages awards for claimants, but rather the need for collaboration, information-sharing, and the creation of best practice between those acting for defendants in response to the behaviours we see exhibited by claimant lawyers, particularly where the maximisation of costs is concerned. Costs represent a very significant proportion of an insurer's indemnity spend and are a key driver of adverse behaviour. In claims of the maximum severity, bills exceeding £1M are regularly received, with the cases clearly being overworked in an attempt to generate revenue. Guideline Hourly Rates increased again at the start of the year – broadly by 6.6% - with future annual uplifts in line with SPPI announced. Farther back to the time I was handling modest and moderate value claims, I saw frequent examples of excessive hours sought, success fees claimed inappropriately, London Weighting wrongly applied, ridiculous ATE premia claimed for modest whiplash cases, premature and unreasonable litigation in response to genuine offers made to settle claims, and so on. Of course, LASPO arrived in 2013 to deal with some of the challenges, but the price for that was QOCS, which for a number of years gave us disappointing decisions, until CPR changes last year. The challenge with hourly-rated work and ever-increasing disbursement claims continues. At the current time, there are a number of reforms afoot which will affect the claims space, many of which are very much needed. I will only touch upon a few of these, but the overarching message is that as a community, those looking after defendants' interests need to ensure continued engagement and discussion of the key challenges the reforms are designed to address (if not produce themselves) as we move forward.

Looking firstly at the recent extension to the Fixed Recoverable Costs (FRC) regime, whilst this remains very new and is subsequently untested, we have the clear scope for mischief in a number of areas, but perhaps mostly when it comes to assertions of vulnerability (itself lacking definition but clearly having great scope) by claimant firms, followed by representations on complexity banding and then exceptionality.

Something I am genuinely enthusiastic about is true collaboration with claimant lawyers where they will work with us and attempting to proceed as consensually as possible, but the problem we have is that whilst high value claims have always been used as a vehicle to optimise costs generation, this will only intensify in light of the measures designed to contain costs in lower-value matters. In my opinion, the costs challenge, as I think of it, is not assisted by the ultimately adversarial system we have. Whilst the protocols and the CPR have laudable aims and a Serious Injury Guide is in place for subscription, it is arguably somewhat one-sided and does not deal with some of the root and branch challenges that we face. In addition, it is not apposite for all insurers, particularly where there are notable

portfolio differences and substantial self-insurance by customers.

The maximisation of high value claims and costs implications of that is compounded by ever more expert disciplines said to be needed to ensure a claimant is fairly compensated, which in turn feeds (or is suggested to require) a need to match that evidence to ensure equality of arms. This issue is also exacerbated by a diminishing pool of experts wishing to undertake medico-legal work. It seems to me that only in personal injury litigation can two psychiatrists, for example, have polarised views that are practically unheard of in clinical practice. In my view, the plain cause of that is the continued adversarial approach which rewards activity not outcomes and as I think of it, this was not in Lord Woolf's contemplation when consensual claims handling between the parties and where possible, the usage of single joint experts, was to be preferred.

Zurich was delighted to respond to the consultations on both Dispute Resolution and Pre-Action Protocols (as well as many others) and is very keen to see real progress on the latter in particular in the near future, given that there is or ought to be the real prospect of addressing some of the adverse behaviours from claimant lawyers, which sounds in tangible and discomforting costs sanctions. At the same time, it is only right that defendants and their insurers and legal representatives face censure and sanction for poor behaviours where exhibited. It must cut both ways.
In terms of Dispute Resolution, it has to be right that litigation be avoided if possible, given that legal proceedings add cost and delay to the claims process, although in certain cases, it can bring valuable case management by the court and a helpful set of Directions, particularly where there has been slow or unhelpful pursuit of the matter by the claimant's solicitors.

Whilst the direction of travel is clearly toward trial being a solution of last resort, care is needed not to accept a compromise at any cost, recognising that many defendants have a genuine position that they are not liable to meet the claim, or that the claimant should bear a substantial degree of responsibility for the accident or its consequences, not to mention that often, defendants have a substantial direct financial interest in the claim through the operation of a deductible or substantial self-insurance.

Parties have since *Halsey v. Milton Keynes General NHS Trust* [2004] had to fear the potential consequences of not engaging in [Alternative] Dispute Resolution (ADR). We have seen the recent case *of Churchill v Merthyr Tydfil County Borough Council* [2023] in which it was decided the court can order parties to engage in ADR, subject to proportionality considerations. Whilst the right to proceed to trial is not affected and could not be in that case due to Article 6 rights, nonetheless the approach is very clear. In addition, we know that compulsory mediation is mooted for Small Track cases in the not-too-distant future.

In all, there is an awful lot happening in the reform space, and with it the potential for significant change. My request is that all those involved in dealing with compensation claims ensure that they closely observe and discuss the relevant issues in effective settings and work collaboratively to develop solutions and

best practice to address the challenges that lie ahead, engaging fully with Government, relevant trade bodies and beyond. I am aware of great and ever-growing collaboration within the Association of British Insurers and within the International Underwriting Association, where insurer representatives meet regularly to debate and discuss issues, whilst always compliant with Competition Law and the highest ethical standards.

FOIL is a fantastic medium for bringing together legal professionals supporting and working with the insurance industry and I would welcome as much engagement between insurers and FOIL as possible on the issues covered above and many more besides, to bring our collective thought and energy together, in order to serve our customers and our clients' best interests, whilst contributing positively toward the development of civil justice.

Finally, it is apt to remember that in dealing with a claim for compensation, there is an injured person at the centre of it, whose needs and interests must not be forgotten. As well as the importance of collaboration and communication in order to deal with claimant lawyer tactics and the civil justice reform programme amidst the requirements and needs of our own businesses, I am very keen to ensure that "lessons learned" are taken from the matters we deal with, particularly injury claims of the maximum severity, which can be fed back to clients and customers in the hope that implementing changes might prevent a similar situation from befalling another person. After all, every catastrophic injury claim is a human tragedy, with an impact going well beyond the individual claimant, affecting their family, healthcare services and with ripple effects on the wider economy. Preventing future incidents by making helpful risk management suggestions following a claims investigation and mitigating the impact for an existing claim through rehabilitation input for the claimant where appropriate can go a long way in terms of providing real added value by the insurer and demonstrate a true desire to help the claimant recover and realise their best outcome. At the same time, I welcome efforts to bridge the divide with the claimant lawyer community and explore efforts to work together wherever we can.

Saying Sorry – The Nature and Use of Apologies in Serious Injury Claims*

Dr Jeffrey Wale (Technical Director, FOIL)
Alice Taylor (Legal Policy Manager at the Association of Personal Injury Lawyers)

In Brief

- The role and value of saying sorry for the victim(s) and their family.
- The recognition that apologies and concessions on liability are not necessarily mutual.
- The realities that can prevent an apology in practice.

Our primary aim in writing this article is to encourage all the parties and advisors to a dispute to pause and reflect on what might be possible and to acknowledge the important role that apologies can play in easing tensions and resolving claims, as well as vindicating the position of those who are impacted by serious injury occurrences.

Nature/role/importance of an apology

While there is a vital role for monetary compensation in personal injury cases in putting the injured party back, as closely as possible, to the position they would have been prior to their injuries, the value of an apology to the injured party in appropriate cases, cannot and should not be overlooked.

Sincere apologies which include an admission of liability and demonstrate remorse and empathy for the injuries sustained or grief suffered, can provide benefit to those injured or bereaved, by providing an acknowledgement of the harm that has been caused. In particular, in cases where a catastrophic injury has been suffered, or in cases of fatal injuries, where there is no possibility of obtaining the injured party's instruction, families can find some respite in knowing that the defendant is sorry for what has happened to their loved one.

It is important that if an apology is made, it is meaningful and heartfelt. An apology that is forced or lacks empathy is likely to do greater damage than if no apology was made. It will not always be appropriate to provide an apology and in some cases, the injured party and/or their family may prefer not to receive one. The injured party's wishes on this should be sought and considered. Equally, if an apology is to be made, there should be consideration of the mode in which it is delivered – would the injured party value a face-to-face apology, or would a letter be more appropriate in the circumstances of the particular case?

Considerations and challenges

Consideration should also be given to the timing of an apology. An early apology might help reduce tension and friction between the parties to a legal dispute. However, it may not always be possible or even feasible to combine an apology with a formal admission of liability. Indeed, it can be counterproductive to delay the offer of an apology or other forms of redress to an injured party until a formal concession on liability can be made. There is statutory recognition that there may be a need to separate these elements under the Compensation Act 2006, s2. There may still be a real benefit if the parties to a legal dispute acknowledge the very real harm that has been suffered, even if they are not able to formally acknowledge personal fault immediately.

There may well be cases where a party feels responsible for the harm suffered by another

but is nonetheless prevented from publicly acknowledging this fact by circumstances outside their direct control. It is also important to recognise the complex case-handling arrangements and professional duties that may be at play in a serious injury claim. There may be parallel criminal and/or regulatory investigations or proceedings that are ongoing and which cannot be prejudiced or easily resolved. The timescales and conduct of these associated procedures are unlikely to be in the direct or immediate control of the parties to the personal injury claim. Different legal and evidential burdens and standards of proof may be at play in different legal jurisdictions. Legal advisors may have overriding professional obligations or complex insurance cover arrangements to navigate that make the pathway to making an apology (with or without an admission of liability) more difficult and time-consuming. If there are background cover, financing or solvency issues this can hamper the offer of an apology and create the erroneous impression of a party unwilling to accept their role and complicity in an event and for any harm that has been caused.

Fault and liability outcomes are not always binary affairs, and there may be fault and harm to be acknowledged on both sides of a legal dispute. This may be an overlooked and underappreciated fact and one that is exacerbated by the binary labels of claimant and defendant. Indeed, wrangling over the appropriate percentage liability split can impede the public acknowledgement of fault by both sides of a legal dispute. Complex liability, factual and causation issues may need to be resolved, and it is here that early disclosure of expert evidence can be beneficial and help facilitate the pathway to an early resolution of a dispute and the offer of an apology.

The Serious Injury Guide emphasises the importance of collaboration between legal representatives and insurers in complex catastrophic and high-value claims. There is express acknowledgement that not all cases will receive an early admission of liability but where the Guide applies there should be a common aim to attempt dispute resolution as early as practicable. The Guide is intended to help parties involved resolve any/all issues whilst putting the injured party or parties at the centre of the process. It puts in place a system that meets the reasonable needs of the injured parties whilst ensuring the legal representatives/insurers work together towards resolving the case by cooperating and narrowing the issues as far as possible. By using the Guide, legal representatives and insurers are more likely to maximise the opportunities for early and meaningful apologies to be made.

*[*FOIL recognises that other or additional considerations may be involved in clinical disputes.]*

TOMORROW'S FOIL FORUM OF INSURANCE LAWYERS

Informing Progress - Shaping the Future

Rebecca Barton (Forbes)

Tomorrow's FOIL in Brief

Tomorrow's FOIL was launched in 2012 to cater for lawyers at member firms with less than 5 years' post qualification experience. This division runs learning and social events, helping to build career long relationships with fellow practitioners and counterpart insurance professionals.

Over the last 12 months, the Tomorrow's FOIL Executive has been working hard to try and generate more interest in the working world of insurance. For those that haven't been introduced to Tomorrow's FOIL before, this was launched in 2012 to run social events, and help build career long relationships with fellow practitioners and counterpart insurance professionals. This article is looking at what progress Tomorrow's FOIL has made to date and what events we have planned in the near future.

On 21 November current President, Rebecca Barton of Forbes Solicitors and Immediate Past President Amy Birchall of Horwich Farrelly attended a Mock Trial at Deans Court Chambers in Manchester. This event was organised by Amy alongside Deans Court and attracted the attention of newly qualified/students with around 19 attendees. The mock trial centered around fundamental dishonesty and saw Amy playing the part of the Claimant, who stood accused of being fundamentally dishonest in exaggerating her injuries following a fall in a local public house. The feedback following this event was that all that attended enjoyed the afternoon.

We have a second Mock Trial on 30 January 2024 at 39 Essex Chambers in London. This again appears to have generated good levels of interest with 32 individuals currently signed up to attend the event at the time of writing. This may be something that Tomorrow's FOIL continue to promote as these types of events appear to generate a lot of interest.

The members of Tomorrow's FOIL have been creating Podcasts. Both Rachel Farnworth of Clyde and Co and Immediate Past President Amy Birchall have been speaking to partners who have not taken the more traditional route to becoming a Partner within a law firm. In the latest episode, Amy speaks to Jared Mallinson, Partner and Head of Counter Fraud at Horwich Farrelly about his career route. Jared talks about how he had no interest in law and that his career started working at an insurance company and about how he found his way to Horwich Farrelly. The podcasts are intended to show anyone thinking about a career in law and specifically insurance law that you can become a partner of a law firm without taking the traditional route. If you want to have a listen to this then head over to the FOIL website Tomorrow's FOIL Podcast – So you want to be a Partner where you can find all our podcasts. Tomorrow's FOIL is continuing to talk to lawyers who have not taken the traditional route into partnership so look out for more podcasts in the future.

Laurence Besemer, CEO of FOIL and Sarah Higgs, Executive Manager at FOIL have been in talks with Bristol Law School to try and arrange a presentation to the students there. Current President Rebecca Barton is also in

contact with at Manchester Law School and in the near future is going to try and arrange a presentation there. Tomorrow's FOIL is always looking to work with Law Schools and Universities in trying to generate interest in the exciting world of insurance law.

Tomorrow's FOIL is always looking for new ways of generating interest from students, paralegals, trainee solicitors, newly qualified lawyers and anyone considering a career in insurance law. The law in these areas is always evolving and therefore this makes the job ever fascinating. We will continue as a committee to try and reach out to all of those considering a career in this area and show them that this area really is a great sector.

FOIL FORUM OF INSURANCE LAWYERS IRELAND
Informing Progress - Shaping the Future

Claim for stress caused by data breach not properly constituted.

Noel Devins (Partner, Kennedys)
Sinéad Reilly (Knowledge Lawyer, Kennedys)

The Irish High Court has found that a claim seeking damages for stress and anxiety caused by an accidental data breach was not properly constituted because the plaintiff had not sought authorisation from the Irish Personal Injuries Assessment Board (PIAB) before issuing proceedings.

Keane v Central Statistics Office: what happened?

The plaintiff, a census enumerator employed by the Irish Central Statistics Office (CSO), was one of 3,000 people whose salary details were mistakenly disclosed by the CSO to third parties.

She issued proceedings in the Circuit Court, claiming that this had caused her stress and anxiety. She said she had suffered a loss of appetite, difficulty sleeping and a flare up of her psoriatic arthritis. The plaintiff did not claim any other specific loss or damage.

In its defence, the CSO submitted that as the plaintiff was seeking damages for personal injuries (i.e. stress and anxiety), she should

have applied to PIAB for an assessment of her claim before issuing court proceedings.

Requirement to seek authorisation from PIAB

The Irish Circuit Court and the High Court, on appeal, found that the plaintiff should have sought authorisation from PIAB.

Broadly speaking and subject to certain exceptions, the Personal Injuries Assessment Board Act 2003 applies to actions intended to be pursued for the purpose of recovering damages, in respect of a **wrong**, **for personal injuries**.

A **"wrong"** is "…a tort, breach of contract or breach of trust…".

"Personal injuries" include "any disease and any impairment of a person's physical or mental conditions."

Where the 2003 Act applies, a claimant must apply to PIAB for an assessment of the claim before issuing court proceedings.

Here, the plaintiff's action against the CSO was for breach of contract, negligence and breach of the duty of care it owed to her. These causes of action were clearly "wrongs" within the meaning of the 2003 Act.

The plaintiff was seeking damages for the stress and anxiety she suffered and the impact this had on her appetite, sleep and psoriatic arthritis. These were impairments of the plaintiff's physical or mental condition and came within the definition of "personal injuries".

The High Court found that:

"a claim that arising from a tort or breach of contract, a person has suffered stress or anxiety… is a claim that constitutes a civil action that requires authorisation from PIAB under the terms of the Act of 2003."

A significant factor in the Court's decision was that the plaintiff did not claim any other specific loss or damage. The Court did not consider whether a PIAB authorisation is required where a claim for stress is ancillary to a claim for other damages said to arise from a tort or breach of contract.

Data protection actions under the Irish Data Protection Act 2018

Persons affected by a data breach can bring a claim under the Data Protection Act 2018 (the breach in the Keane case pre-dated this Act).

The court can award compensation for any damage caused by the data breach, including non-material damage. In 2023, the Circuit Court indicated that claims for non-material damage would likely attract "modest" compensation, awarding €2,000 in the particular case for damage that it said went "beyond mere upset".

As of 11 January, this year, the District Court can, in addition to the Circuit Court, hear data protection actions under the 2018 Act. This is a welcome development as the value of these claims typically comes within the District Court's monetary jurisdiction (up to €15,000) and it should reduce the costs of defending these claims.

(This article will also be reproduced on Kennedy's website)

FOIL Scotland

Kate Donachie (Brodies LLP Solicitors and Chair of FOIL Scotland)

2024 seems likely to be a busy year for the insurance sector in Scotland. The Scottish Government will make an announcement on the Personal Injury Discount Rate with any change to come into place by October 2024. The Scottish Government issued a call for evidence in the summer of 2023 but is yet to report back. At present it is anticipated that we will remain with a single rate, but it is unclear whether the current rate, -0.75% will change.

The Scottish Law Commission consulted on damages in 2022 and its report is due in mid-2024. It is anticipated that the report will recommend changes to the way that claims for personal services/care are calculated and the approach to settlements on behalf of children. These changes are likely to bring the approach in Scotland closer to that in England and Wales.

The Scottish Government has recently closed a consultation in relation to the management of recoverable benefits in Scotland. Social Security benefits were previously reserved to Westminster but are now devolved. The Scottish Government asked for stakeholder views on whether or not the CRU system should be operated differently in Scotland. The views expressed at pre-consultation events were consistent in expressing a desire to maintain the status quo. There does not appear to be support for a new, different system in Scotland. It is not currently known when the Scottish Government will report on the responses submitted.

FOIL Northern Ireland

Tara McSorley (Clyde & Co and Chair of FOIL Northern Ireland)

With the return of the Northern Ireland Assembly, what are the potential benefits for insurers and their policyholders?

<u>NI Discount Rate (NIDR)</u>

In the ongoing cost of living crisis, Assembly Ministers will be conscious of the cost of increased insurance premiums for their constituents. Recent reports show that the average cost of car insurance in NI has hit £1,051.00. The NIDR is to be reviewed between July and October 2024. If there is a sitting Assembly, this will mean there will be no further delay in revising the rate. The appointment of a Justice Minister within the Assembly means that the Department of Justice can receive the report from the Government Actuary so that the Discount Rate can be set.

The signs point to a Discount Rate which will be more positive (or less negative?) for insurers. Perhaps this will be good for policyholders as a

lower discount rate may reduce claim-spend for insurers enabling them to reduce premiums.

E-Scooters

Transport is a devolved matter. The Westminster Government has no plans to legislate for privately owned scooters in NI which remain illegal for use on pavements and roads. NI is somewhat behind on its approach to e-scooters. The Republic of Ireland is bringing forward legislation to regulate use of privately owned e-scooters. Will the Assembly consider regulating e-scooters in a scheme similar to the Belfast Bikes scheme? Regulation would protect scooter riders and road users, especially pedestrians. There is an opportunity for the Assembly to enable the widespread use of e-scooters and bolster their green agenda.

Respiratory Claims Arising from Mould in Damp Properties

England and Wales have seen the introduction of The Social Housing (Regulation) Act 2023 (Awaab's Law). We have no equivalent in NI. With the Assembly's return, we can expect more stringent regulation of housing associations and their handling of reports of damp and mould in properties in NI. Although housing associations are improving their stock, regulation would be an easy win for Assembly Ministers who can attract votes among social housing tenants by simply enacting NI legislation to reflect Awaab's Law.

Conclusion

We can expect greater clarity in terms of filling in the legislative gaps created by the stasis of the last few years. We are already waiting for more certainty for reserving and claims spend as we anticipate the imminent publication of the new guidelines for personal injury awards in the upcoming "Green Book". The Assembly's return to introduce and streamline legislation will assist with claims handling which will ultimately benefit both insurers and their policyholders in the future.

Welcome to FOIL's new Operations Manager

Ian Thornhill

FOIL has an Operations Manager!

Plucked from the depths of the Insurance industry, I am pleased to announce that I have joined FOIL as the Operations Manager. It's been a long road for me from the highways of insurance companies such as Aviva, RSA, Covea, to the sweeping bends of insurance brokers and delegated authority schemes with AON and Forces Mutual, to the tight corners of Loss Adjusters, GAB Robins and Cunningham Lindsey and the pot holes of investigations companies, Coventbridge and Allied Universal. My background is mainly in claims having dealt with Motor including personal injury, Household, Commercial, Employers and Public Liability, Travel, Personal Accident, Healthcare Cash Plans and Credit Indemnity. All with one thing in common, a desire to add value to each company I have worked for and a willingness to adapt to change.

In my spare time, I am an avid Reading FC supporter having got the bug from my dad who played for Reading between 1960 – 1970. Having been put on furlough during the pandemic and after painting the entire house and putting up all the shelves I possibly could, I was a bit bored and decided to write a book about my dad and his career. It is a great sense of achievement to write and self-publish something that will always be out there and I know that some 'older' supporters of Reading have enjoyed reading about his career – (PS- it's available on Amazon under 'Spider – The Rod Thornhill story' but apparently I'm not allowed to advertise that…)

I have only been here a short while, but I have been impressed with the setup of the organization and the incredible input and work from all members of FOIL. Within my new role, I will be taking over some of Laurence's responsibilities and this will become evident as I find my feet. Just a couple of things to begin with, you will see a visible increase in FOIL's presence in social media very soon so we can provide members with regular information. I will be meeting the web developers soon to see if we can make the website a bit more user friendly and to freshen it up a bit and I will be taking over some of the SFT's from Laurence in the not too distant future.

Finally, from me, there is charity night in the pipeline to raise some funds for the President's charity, Kintsugi Hope, more details to follow very soon!

I am looking forward to this journey and working with you all, pot holes and all!

FOIL in the Media (November 2023 – January 2024)

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

Simon Murray, Cyber and Technology SFT, of DWF, authored a piece for **Insurance Day** discussing how generative AI is shaping insurance law and its future: *8 November 2023*

Insurance Post also published a piece from **Simon Murray** on generative AI's influence on the insurance industry, and whether its use is set to increase: *17 November 2023*

The appointment of **Pete Allchorne of DAC Beachcroft** as FOIL President was covered in a wide range of legal and insurance publications including **Insurance Business; Insurance Edge**; **The Insurer; Insurance Post**; **Solicitors Journal; Reinsurance News; Claims Magazine; Insurance Today and The Legal Diary:**

Amy Nesbitt, D&O SFT, of Weightmans, featured in the **Insurance Post** with her article detailing The Economic Crime and Corporate Transparency Act and the implications this may have on the insurance industry: *7 December 2023*

Insurance Post published an article from **Hannah Williams** and **Iskander Fernandez,** both from **Kennedys**. Their article also considered the Economic Crime and Corporate Transparency Act and the need for insurers and businesses alike to take necessary steps to comply: *11 December 2023*

Pete Allchorne and Nicola Critchley, FOIL's Past President, of DWF Law co-authored a thoughtful piece for **Insurance Day,** in which they looked at the new legislation and guidance the insurance industry has had to adopt over 2023, and what they can expect to see in 2024: *20 December 2023*

City A.M. published comments from **Pete Allchorne,** in a piece following Storm Henk. He explained the high cost of extreme weather claims, and the fact that both insurers and consumers need support in these situations: *5 January 2024*

Paul Finn, Technical Author at FOIL, featured in **Insurance Edge** with a roundup of FOIL's work in 2023: *16 January 2024*

Pete Allchorne was invited to an interview with **Insurance Post** to discuss developments in the insurance law space: *18 January 2024*

Finally, ahead of the Personal Injury Discount review, **Pete Allchorne** wrote a piece for **Insurance Post** detailing the impact decision could have on insurers, and touching upon how this process works: *23 January 2024*

FOIL - the Forum of Insurance Lawyers

@FOILlaw

Case Spotlight – *Paul, Purchase and Polmear*

Paul and another (Appellants) v Royal Wolverhampton NHS Trust (Respondent); Polmear and another (Appellants) v Royal Cornwall Hospitals NHS Trust (Respondent); Purchase (Appellant) v Ahmed (Respondent) **[2024] UKSC 1**

Paul Finn (FOIL Technical Author)

In Brief

- The Ruling sets a precedent limiting the scope of secondary victim claims for psychiatric injury.
- The Court emphasised the need to witness an accident or its immediate aftermath as integral to secondary victim claims.
- The decision clarifies the duty of care owed by medical practitioners in protecting against the risk of injury to close relatives in the context of clinical negligence.

The Supreme Court decision in the case of Paul, Polmear and Purchase has significant implications for the law regarding secondary victim claims. The court concluded the claimant in such a position is unable to bring a claim unless they specifically witnessed the incident and have a close tie of love and affection with the primary victim. Accordingly, the Supreme Court decision now restricts secondary victim claims to those that witness an accident, but it removes the requirement for what is defined as a "sudden shock."

Accordingly, the decision has brought about an end to 30 years of debate and as to whether a person who witnessed a death or a serious injury to a loved one can bring a claim as a so-called "secondary victim." The ruling clarified the scope of secondary victim claims where compensation is sought for psychiatric injury resultant from witnessing the death or serious injury of a loved one can be pursued.

The court's decision is largely based on the interpretation of the term "accident" and the requirement that there be a close tie of love and affection between the primary victim and the secondary victim, thereby setting a new precedent in this area of law.

Therefore, the decision has restricted secondary victim claims to only those who witness an accident but has removed the requirements of "sudden shock to the nervous system" caused by a horrifying event.

In this majority decision, the court dismissed the appeal of the claimants in the case of *Paul v Royal Wolverhampton NHS Trus*t [2024] UKSC 1 and the conjoined cases *of Polmear v Royal Cornwall Hospitals NHS Trust and Purchase v Ahmed*.

The Supreme Court held the claimant in such a position cannot bring a claim, such as in the case of *North Glamorgan NHS Trust v Walters* [2002] EWCA Civ1792 which was wrongly decided on its facts.

In summary, the court decision is that for a claimant to satisfy the criteria for a secondary victim claim, as set out in the case of *Alcock v Chief Constable of South Yorkshire Police* [1992] 1 AC 310 the claimant must be present at the scene of the material accident and/or the immediate aftermath. Accordingly, the claimant must have witnessed the accident

and have a close bond of love and affection with the primary victim to succeed with the claim.

Much debate was made concerning the use and definition of the word "accident", the court stated it was to be used as a term within its ordinary sense and meaning, referring to both an accidental and unexpected event that caused injury, (or risk of injury), "to a victim by violent external means."

Accordingly, this definition would preclude claims by secondary victims who witnessed the consequences of a family member's illness where proper treatment would have prevented the loss. In such circumstances, the claimant could not satisfy the specific criteria as detailed above.

The Supreme Court utilised a general rule that common law does not recognise one individual's right or legally compensable interest in the well-being of another. Therefore, the general policy of civil law is opposed to providing remedies for third parties in respect of the effects of injury to others.

Nevertheless, the court believed there must be a line to ensure the liability of negligent actions causing secondary harm within reasonable constraints, it was stated that, "*wherever the line is drawn some people who suffer what may be serious illness in connection with the death or injury of another person will be left uncompensated*."

The court believed that emphasis must be placed on the value of certainty. They also felt that their interpretation of the *Alcock* criteria - restricting recovery to people "*who were present...witnessed the accident and have a close tie of love and affection with the primary victim*", was more logical and therefore more justified than a theory that illness caused by direct perception is somehow more worthy of compensation than that caused by other means.

Rather, the court saw the need to limit the class of eligible claimants to those people most directly and closely connected to the accident and to impose restrictions that are reasonably straightforward and thus certain.

The court also considered their interpretation of the previous case law and general legal principles concerning a medical duty of care and to whom such a professional duty is owed. They concluded that these responsibilities are not necessarily extended to the protection of the patient's family from exposure to traumatic events, such as death or the development of various injuries or disease.

The judgment handed down by the Supreme Court is therefore of great importance and relevance to lawyers involved in civil litigation specifically clinical negligence. A number of crucial observations were made concerning the Alcock criteria which are now vital to all secondary victim claims.

The court stated a claimant must show no more than conventional causation of psychiatric injury in secondary injury claims. Accordingly, as regards causation, it is deemed sufficient should a claimant be present at the scene of an accident or the immediate aftermath, involving a loved one, to show a causal link between witnessing the event and the injury or the illness suffered thereafter. By virtue of this, it is not necessary to demonstrate a psychological mechanism by which the injury was caused.

Similarly, the court rejected the suggestion that an accident must give rise to the

secondary victim's claim by way of an apparent horrifying event. Rather, the claimant must show that it was reasonably foreseeable the negligence may cause him or her an injury.

The Supreme Court also gave guidance on the relative timeline between the material accident and the breach of duty, stating that gap between breach and the accident is not a bar to recovery of damages. Indeed, they stated there was nothing in any of the prior authorities to prevent recovery of damages in a personal injury claim caused by witnessing an accident, by the passage of time between that event and the negligent act or indeed omission. Rather, the requirement is one of proximity both in time and space as well as a direct perception of the accident itself.

In conclusion, the recent Supreme Court decision in the conjoined appeals of *Paul and another v Royal Wolverhampton NHS Trust*, *Polmear and another v Royal Cornwall Hospitals NHS Trust,* and *Purchase v Ahmed* concluded that the claims for compensation did not satisfy the legal requirements for the recovery of damages by the claimants. Accordingly, the court held in favour of the defendants and dismissed the appeals, casting uncertainty over a multitude of secondary victim claims and preventing any "gap in space and time" that will prove highly challenging for future claimants.

This decision has provided long awaited clarity in secondary victim claims made for clinical negligence and has also emphasised the limitations and legal requirements for these claims. This judgment will have a significant impact on future claims brought by secondary victims for such psychiatric injury.

Clearly, the decision which proved unfavourable for the claimants will no doubt have a significant effect on those numerous cases which were stayed pending the appeal. Whilst the judgment has provided clarity for secondary victim claims, the outcome has caused great disappointment and concern amongst claimant lawyers because it clearly restricts the scope for recoverability to those who were present and witnessed an accident, as well as having a close relationship with the victim.

Accordingly, the judgment will have a significant impact on the insurance market particularly in the field of medical malpractice particularly as the precedent now limits the scope of secondary victim claims for psychiatric injury.

Consultations and Calls

Northern Ireland, Draft High Court Protocol For Personal Injury And Damage-Only Civil Litigation Actions

This draft protocol is intended to apply to all cases involving claims in personal injury and damage only civil litigation actions in the King's Bench Division of the High Court of Justice in Northern Ireland. It is intended to replace an existing 2008 Pre-Action Protocol for Personal Injury litigation.

The Northern Ireland Committee is due to meet on 12 February 2024 to finalise the FOIL response to this new draft Protocol.

Ministry of Justice, 2nd Call for Evidence Personal Injury Discount Rate (England and Wales)

This further Call for Evidence by the Ministry of Justice is intended to assist the PIDR Expert Panel in the process of obtaining up-to-date data and information on a wide range of topics relevant to modelling claimants' likely return on investment. This includes claim and claimant characteristics, claimant investment experience, investment expenses, changes to earlier Call(s) for Evidence, the impact and practicalities of adopting dual/multiple discount rates and how compensation payments are made.

We are advised that all submissions will be considered and used to inform the work of the Expert Panel in providing advice to the Lord Chancellor. The Call can be accessed at the following link and responses are due by 9 April 2024. FOIL will be coordinating a response to this Call and is aiming to organise an online event nearer the response deadline. If you want to forward any evidence or offer feedback, please contact: jeffrey.wale@foil.org.uk

CJC consultation on Procedure for Determining Mental Capacity

Whilst the processes that commence once it is decided a litigant lacks capacity are well-established, there is no process within the rules for determining capacity. The CJC proposals aim to address that gap. The proposals include consideration of express duties to bring the matter before the court, on the solicitor for a client who it is believed may lack capacity, and on the opposing solicitor when the concerns arise about a Litigant in Person. The issue of who should take responsibility for investigating the issue, the nature of a determination hearing, and who should pay (either initially or through recoverable costs) are also covered.

The consultation can be found at the following link and closes on 17 March 2024. Shirley Denyer will be coordinating the response on behalf of FOIL.

Recent developments in Automated Vehicles Legislation in the UK

Paul Finn (FOIL Technical Author)

The UK has been making significant strides in automated vehicle legislation, which will have a profound impact on the future of insurance. The government is set to bring forward an Automated Vehicles Bill, paving the way for the use of self-driving vehicles. The Automated Vehicles Bill, announced in November 2023, is designed to allow self-driving cars on UK roads, providing an exciting opportunity to increase road safety.

This legislation will establish a new regulatory framework for insurance cover for automated vehicles, with a focus on safety and liability. Under the new legislation, it will now be the responsibility of the manufacturer rather than an individual to ensure insurance coverage for automated vehicles. The Bill also outlines the ongoing obligations of developers and operators to keep the vehicles safe and report safety-related data to the authorisation authority.

The Automated Vehicles Bill encompasses a wide range of provisions aimed at regulating the use of automated vehicles and ensuring public safety. These measures cover aspects such as criminal liability, marketing restrictions, permits for automated passenger services, and the adaptation of existing regulatory regimes to accommodate the use of automated vehicles. This bill addresses important aspects such as maintaining appropriate insurance and ensuring proper loading when a vehicle is driving itself, with a focus on a joined-up and collaborative approach across all levels of government.

The impact of this legislation on the future of insurance is substantial – new law will replace direct products liability claims against manufacturers with a requirement that claimants turn to the existing personal auto insurance scheme.

This shift in liability and insurance coverage reflects the evolving nature of risk in the context of automated vehicles. Traditional insurers will need to adapt their underwriting processes and policy forms to address the novel challenges posed by highly automated vehicles. Insurers will need to be fast and flexible in responding to such changes to effectively address the new and unique risks associated with automated vehicles.

The bill consists of seven parts, each addressing different aspects of automated vehicle regulation.

1. Part 1: Regulatory scheme for automated vehicles
2. Part 2: Criminal liability for vehicle use
3. Part 3: Policing and investigation
4. Part 4: Marketing restrictions
5. Part 5: Permits for automated passenger services
6. Part 6: Adaptation of existing regimes
7. Part 7: General provision

The bill also introduces the concept of "Authorised Self-Driving Entity (ASDE)" and "User-in-Charge Operator," outlining the roles and responsibilities of these entities in the use and safety of automated vehicles.

Furthermore, the legislation provides for the grant of authorisation of automation features and sets out the principles for ensuring road

safety will be improved as a result of the use of automated vehicles.

The bill also includes measures to ensure that individuals using automated vehicles are immune from prosecution in certain circumstances, while also outlining the ongoing obligations of developers and operators to keep the vehicles safe and report safety-related data to the authorisation authority.

The Automated Vehicles Bill was introduced in the UK on November 8, 2023, and is currently progressing through the various stages in Parliament. It is expected that it will be enacted into law before the end of the current parliamentary session. The specific timeline for its enactment will depend on its progression through the remaining stages in Parliament. The timeline for the bill to become law is as follows:

- The bill was introduced in the House of Lords on November 8, 2023.
- The next event in the progression of the bill is the Report stage, which is scheduled for February 6, 2024.
- The most recent event related to the bill was the Committee stage, which took place on January 15, 2024.

The insurance industry is fully committed to supporting the development of automated vehicles, as they have the potential to improve road safety and revolutionise the transport system. Insurers are working intensively on pilots of autonomous vehicles across the country and are innovating their products to address vital questions of safety and liability.

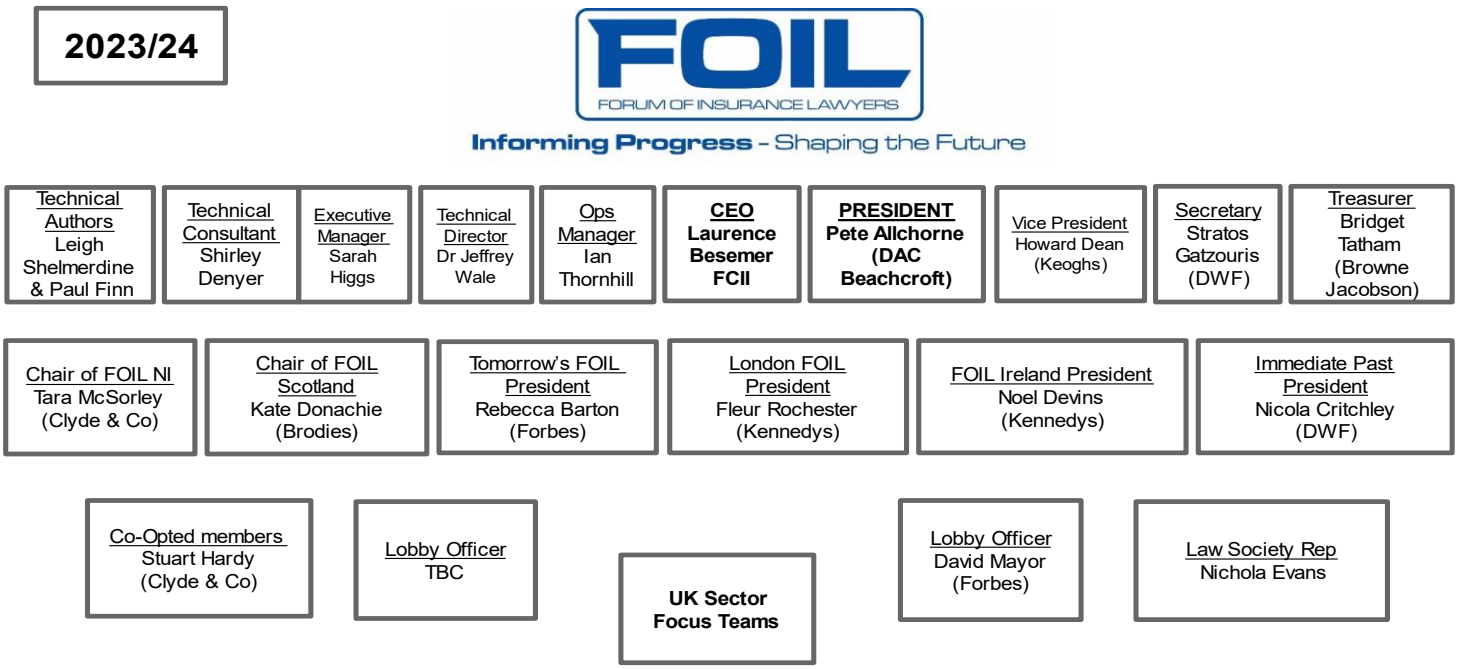
The introduction of autonomous vehicles is expected to lead to a shift in the insurance model, with manufacturers likely to provide the insurance, and an increase in the trend towards leasing rather than outright purchase of vehicles.

In conclusion therefore the latest developments in the UK's automated vehicles legislation, particularly the Automated Vehicles Bill, will have a significant impact on the insurance industry, with a focus on road safety, liability, and the ever-evolving insurance model.

The development of automated vehicles in the UK is anticipated to increase the rise of vehicle leasing due to the demand for the latest autonomous convenience and technology.

The new U.K. Automated Vehicle Bill setting the framework for self driving cars and changing liability from owner to manufacturer. This will influence the leasing market as companies will be responsible for the cars that they control.

The New FOIL Structure



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