

# EDITORIAL

## Editorial Notices from Stephen Mason

I am very pleased that Dr Allison Stanfield has agreed to become the joint editor of the journal this year. Allison was awarded her PhD, entitled 'The Authentication of Electronic Evidence', in 2015 by the Law School, Queensland University of Technology, Australia and joined me on the chapter of 'Authentication' in the fourth edition of *Electronic Evidence*.

Apologies to Aneta Petrova, senior assistant professor at the Law Faculty, Plovdiv University, Bulgaria for inadvertently omitting her name from the list of those that took part in the discussion on the Convention on Electronic Evidence last year. We have rectified the omission by publishing a revised version.

## Joint Editorial

It is now accepted that the only certainty with respect to technology is that it changes constantly, and is generally improving. Perhaps the same cannot be said for the law. In business, electronic documents are signed and exchanged regularly and software, such as that to enable driverless motor vehicles, is constantly being written and implemented in practice. We as editors, keep an eye on the way in which the law is coping with such huge societal changes, and consequently, we have seen a great deal of incomprehension and inconsistency from law makers. It is the role of this journal to keep readers aware of the law, and to raise questions that provoke some jurisprudential thought on whether the laws are adequate.

Legislators across the globe have or are in the process of amending legislation to permit the use of motor vehicles that are driven by software, and not the human driver. There are some significant problems with entrusting one's life into the hands of software programmers. Admittedly every time an aircraft takes off, flies and lands, the entire journey is controlled by software written by human beings. This has made

flying very safe. However, the controls exerted over the development and quality of software destined for use in an aircraft lends a degree of comfort to the traveller that they are safe to fly. Not so the software in motor vehicles. People have been killed and injured when software has taken over a motor vehicle and driven the vehicles to top speed. Illustrations are set out in chapter 6 of *Electronic Evidence*, 4th edition, 2017.

If motor vehicles are to be controlled by software written by programmers, a number of issues arise in legal terms that are critical, especially where litigation occurs:

- (i) The presumption that computers are 'reliable' must be revered or ameliorated.
- (ii) The process of disclosure or discovery must provide for the automatic disclosure of the software code and any other relevant design documents.
- (iii) The rules that permit business records to be automatically granted admission into legal proceedings without the need for authentication must be amended.

More generally, investigators and lawyers must understand that they cannot be complacent when analysing facts leading to a possible prosecution. It is essential that those responsible for bringing criminal proceedings ascertain the correct position before deciding to charge people. This did not occur in the case of the nurses in the Princess of Wales Hospital in Bridgend, Wales in 2015 (for which see *Electronic Evidence*, 9.90 – 9.95).

One of the main reasons cited to support the introduction of motor vehicles controlled by software is to reduce the number of accidents. It is right that society ought to try and reduce the number of people killed and injured in motor vehicles, especially if elderly people continue driving when it is not safe, and others drive under the influence of alcohol and

drugs. However, it does not follow that vehicles controlled by software will necessarily be any safer. The replacement of a human with cameras and sensors connected to a computer that works at a much slower rate than the human brain does not mean software vehicles will be any safer. This is why the changes noted above in the law are so important.

### **Undergraduate essay**

Finally, we make mention of the undergraduate essay published in this issue. Two enterprising students from National Law University, Jodhpur, India submitted a possible article this year. The topic was of such interest that we decided to publish the article. The students have gone through the normal editorial and peer review, and to their credit, have indicated that they have learnt a great deal by going through the process.

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### Submissions

The Review seeks and encourages original submissions from judges, lawyers, academics, scientists and technicians; students in relation to postgraduate degree work and versions of dissertations, where the student has passed the relevant course and the dissertation has been marked. The IT industry, certification authorities, registration authorities and suppliers of software and hardware are also encouraged to engage in the debate by submitting articles and items of news.

The length of an article can vary. There is no fixed length. The aim is to publish articles of good quality that adds to the debate and knowledge of readers, discuss recent developments and offer practical advice. All articles will be in English, and contributors are requested to write using shorter, rather than longer sentences, because the audience is international.

Submissions should be sent as an attachment to an e-mail addressed to [stephenmason@stephenmason.co.uk](mailto:stephenmason@stephenmason.co.uk) or through the online submission options on the journal's homepage at: <http://journals.sas.ac.uk/deeslr/>.

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