

EXPERIENCE PORTFOLIO 1 ([REDACTED])**Date Instructed in the Case: 15 October 2021****An Outline of the Facts of the Case:**

We were instructed by the insurers of Mr [REDACTED] who was under investigation by [REDACTED] for an offence of driving without due care and attention under Section 3 Road Traffic Act 1988.

The circumstances of the incident were as follows:

[REDACTED] 2021 at approximately 19.45 hours, Mr Y was driving [REDACTED] [REDACTED]. He was driving north, intending to turn right into [REDACTED] Road at a traffic light-controlled junction. As he approached the junction. The traffic lights were green. Mr Y checked his rear-view mirror and put his right indicator on. He checked the road ahead and did not see any oncoming cars, cyclists or motorcyclists.

As he pulled forwards to turn right at the junction, the [REDACTED] collided with a motorcyclist travelling south on [REDACTED].

The motorbike rebounded off the [REDACTED] and the motorcyclist was thrown some distance where he came to rest on the ground.

The motorcyclist was a [REDACTED] driver aged in his early 20s. He suffered catastrophic injuries in the incident resulting in the amputation of his leg.

The police attended the scene of the incident and conducted a roadside breath test and drugs wipe which both returned negative results. Mr Y was arrested on suspicion of causing serious injury by dangerous driving and taken to the Police station for interview. We were not engaged at this stage as Mr Y was not aware of cover for criminal defence representation under his motor insurance policy.

Mr Y's father arranged for a solicitor friend to attend the police interview. Mr Y advanced a brief prepared statement and then responded no comment to all questions put to him in interview.

We were instructed just over 6 weeks later through Mr Y's motor insurers who also instructed our firm in respect of a civil claim brought by the motorcyclist.

Following the police investigation, Mr Y was charged with an offence of careless driving (or driving without due care and attention (contrary to Section 3 Road Traffic Act 1988)

An Explanation of the Law Arising in the case and how the law applies to the facts of the case

During the Police Station investigation, Mr Y was initially under investigation for offences of careless driving or causing serious injury by dangerous driving.

Careless driving or driving without due care and attention (an offence contrary to Section 3 of the Road Traffic Act 1988) is driving that falls below the standard of a careful and competent driver. Typical examples of careless driving are a momentary lapse of concentration or a misjudgement.

By comparison, dangerous driving (an offence contrary to Section 2 of the Road Traffic Act 1988) is driving that falls far below the standard of a careful and competent driver and is a much more serious offence.

Causing serious injury by dangerous driving (an offence contrary to Section 1A of the Road Traffic Act 1988) requires the elements of both dangerous driving and serious injury to be present for the offence to be made out. For the purpose of the Act, Section 1A (2) sets out the definition of “serious injury” to mean physical harm which amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861, ie serious bodily harm which includes lacerations, broken bones, concussion and can also include psychiatric injury.

In this case, there was serious injury which tragically led to the motorcyclist having his leg amputated. However, it was my assessment at an early stage, from the information provided to me, that there was nothing to suggest dangerous driving. Turning right across the path of a correctly proceeding vehicle is a typical example of careless driving and it was my view that this would be the offence that the client would be facing following the police investigation.

At the time of the commission of this offence, there was no offence of causing serious injury by careless driving in force. This offence was brought into legislation in June 2022. I advised my client that this offence would be coming into force in due course but that he could not be charged with this due to the rules on unfair retrospectivity under Article 7 ECHR.

Prosecution

As anticipated, following the police investigation, Mr Y was charged with an offence of careless driving (or driving without due care and attention – Section 3 Road Traffic Act 1988)

Application of the law

The application of the law in this case is that Mr Y did not see the motorcyclist before starting to turn right across his path. The prosecution case was that he failed to observe a motorcyclist who was there to be seen and that he crossed the motorcyclist’s correctly proceeding path. Either he did not check the road ahead properly or he did check but did not see the motorcyclist. Further, when he became aware of the motorcyclist, he did not take effective evasive action. The Crown’s case was that this amounted to driving that fell below the standard of a careful and competent driver.

From my client’s instructions, it was apparent that he wished to advance a defence, ie that he had conducted all the requisite checks of the road before commencing his turn and that he had checked the road ahead but had not seen the motorcyclist. At the initial meeting with the client, and as is typical, we did not have the benefit of any prosecution evidence and so it was not possible for me to be able to provide full advice at that stage. I have a wealth of experience in dealing with car/motorcycle incidents in which the question of criminal liability is not straightforward. Factors such as lighting and low conspicuity (for example if the motorcyclist was wearing all black) combined with road layout features could potentially provide a line of defence.

I was familiar with the location of the collision and aware that the sightline north at the junction is not entirely straight as there is a sweeping right bend in the direction of the motorcycle’s approach. Subject to the speed of the motorcyclist and the point at which my client had made his checks of the road ahead, there could potentially have been a scenario in which the motorcyclist had either been not in view or was sufficiently distant to not pose as a potential hazard. In those circumstances my client may have had a defence.

Any Procedural and Process Matters that arose in the case and how they were dealt with

Police Interview

At an introductory meeting with the client, he had confirmed to me that he had not put forward any meaningful account to the Police when he was interviewed under caution. He had been arrested and conveyed to the police station and his father had arranged for a family friend/solicitor to represent him in interview. The Solicitor had advised Mr Y to advance a brief prepared statement and then reply no comment to all questions put to him in the interview. The prepared statement consisted of 3 lines in which he accepted that he had been the driver of the [REDACTED] and that he denied driving dangerously.

It was my view that my client needed an opportunity to provide an account to the Police. At this stage, I had not seen the evidence and so I could not evaluate his prospects. However, if he wished to defend the matter later and rely on an account at trial, he would need to advance this in interview.

I advised my client on this (see advice section below) and he agreed to return to the police station for a further interview. I also advised him on how to deal with the interview and he decided to advance his account by way of a detailed prepared statement and then respond no comment to further questions. This was in no way a repeat of the first interview as the statement provided was a detailed and substantive account.

Having obtained my client's agreement to this course of action, I contacted the Investigating Officer and arranged for my client to attend a further interview under caution. This took place on [REDACTED] 2021.

Vehicle Examination

In a road traffic collision impact between vehicles, a vehicle examination can prove to be a very important line of investigation. The damage profile to a vehicle can provide an insight into the collision mechanics, the relative positions of vehicles at impact and relative speeds.

I arranged for an independent forensic collision investigator to gain access to the defendant's vehicle in order for an examination to take place. This provided the expert with key information that, along with a locus and CCTV examination, formed our expert's reconstruction report.

Preliminary Hearing (application to re-open case under Section 142 Magistrates' Court Act 1980)

Following the police interview on [REDACTED] 2021, my client was anticipating a prosecution and waiting to receive formal notice by way of postal requisition or single justice procedure.

On [REDACTED] 2022 I received an email from the insurer client to advise that solicitors for the injured party had informed them that my client was due before the court on [REDACTED]. No further information was available.

On looking into matter with my client, he had in fact received a single justice procedure notice issued on [REDACTED] 2021, but had not opened the post. Under the Single Justice Procedure, a defendant must respond to the charge, by confirming a plea by post or online within 21 days. The case would then be dealt with in a closed court to determine the next stage of the case (either listed for sentence or case management hearing).

I had to act quickly on this. The information we had received suggested that the defendant was due before the court in seven days' time. There was a realistic prospect that the defendant may have been convicted in absence (due to no response) under the single justice procedure and the hearing on 25 January listed for sentence. Under those circumstances we would need to apply to the court to re-open the case under Section 142 Magistrates' Court Act 1980 and in the interests of justice. Under the section, the magistrates have the power to re-open cases to vary or rescind an order imposed if it appears to the court to be in the interests of justice to do so.

I advised my client in respect of the Single Justice Procedure Notice and plea (see advice section) and obtained his instructions regarding plea. I then advised him on the steps we would need to take to re-open the case (if in fact he had been convicted in absence) and that he would need to attend court on [REDACTED] 2022.

Attempts to contact the court by telephone were fruitless and we later learned that the phones were completely unmanned due to staff shortages. I therefore wrote a letter to the court marked urgent and addressed to the legal advisor. The letter sought to request confirmation of the procedural position in the case and give notice that an application to reopen the case would follow at the hearing. I also apprised the court of information for case management purposes.

[See attached letter \[REDACTED\]' Court dated \[REDACTED\] 2022.](#)

We also needed to instruct Counsel to represent the defendant at court at the hearing. The email to defence counsel's clerk sets out the position and urgency of the matter, requesting cover.

[See attached email to Counsel's clerk dated \[REDACTED\] 2022.](#)

The Evidential Issues that arose in the case and how they were dealt with.

The Prosecution evidence comprised only one eye-witness prosecution witness and CCTV footage. Evidence from the injured party was not relied on by the Crown as he could not remember anything about the incident.

The prosecution witness relied on had provided a statement in which she said she had been the front seat passenger in a car being driven by her husband. They were stationary at the set of traffic lights and first in the queue. They were positioned travelling west (and on the opposite side of the road in which client was intending to enter). She stated:

"I saw [REDACTED] come from my left to right into the middle of the crossroads and begin to turn towards us, so turning right and as the driver of the [REDACTED] turned, he hit a scooter who was coming towards the driver, crossing the scooter's path, the scooter had its headlights on.

The rider of scooter was flung up into the air and the scooter slid across the front of our vehicle, right to left and went through some metal railings on the corner just near to my door. The rider of the scooter landed near to the crossing area a few metres to my left just outside the nursery;

I then saw the driver of the [REDACTED] move their vehicle from the middle of the junction onto [REDACTED] and park it up on their left;

I would say the driver of the [REDACTED] was to blame. This is because the traffic lights were in good working order. The rider of the scooter did have his head lights on and was there to be seen. The driver of the [REDACTED] should have waited until it was clear before turning right into the scooter;

I can say that neither the driver or the rider were going fast.”

The witness had an unobstructed view of the incident and, as an independent witness, would have no reason to lie or embellish her account. Notwithstanding the fact that eye-witness accounts are not always completely reliable, it was my assessment that this witness’s evidence would be accepted by the court.

CCTV Evidence

The key evidence in the case was CCTV footage captured from a [REDACTED] Council camera approx. 50m west of the collision locus. The footage captured the defendant approaching the junction from right to left and pull forward into the centre. The footage showed that the defendant did not come to a stop before starting to turn right. The motorbike’s headlight could be seen coming into view as the defendant approached the junction.

The defendant’s potential line of defence was that he made all the requisite checks as a careful and competent driver but there was some reason or a combination of reasons why he did not see the motorcyclist prior to commencing his right turn. An obvious example would be if the motorcyclist was travelling at excessive speed on his approach to the junction, such that the motorcyclist was not in view when the defendant made his checks of the road ahead. The test for careless driving is an objective test. If we could provide evidence to show that any careful and competent driver would not have identified the motorcyclist, then we would have a plausible defence.

The key to exploring this lay in an examination of the CCTV footage along with a reconstruction of the collision mechanics.

I instructed an expert, [REDACTED] [REDACTED] Services, to examine the vehicle in police retention, examine the locus and the CCTV evidence and prepare a reconstruction report. Mr [REDACTED] preferred experts and I had used him on many occasions. Within my instructions, I asked Mr [REDACTED] to comment on the following points where possible:

- To provide a timeline from when the defendant’s vehicle and motorcycle first come into view;
- To provide an estimate of the speed of the defendant’s vehicle as it approached the junction;
- Advise on whether the defendant slowed at all prior to his commencement of the right turn;
- Comment on the relative positions of the [REDACTED] and motorcycle at the point that the defendant commenced his turn;
- Comment on the probable relative orientation of the vehicles at impact;
- Comment on whether the defendant took any apparent evasive action prior to the impact;
- If the defendant did take evasive action, comment on the likely perception and reaction time prior to taking evasive action, and identify the position of the motorcycle at the point that it was probable the defendant first perceived the motorcycle;

- Comment on any visibility or conspicuity issues, particularly due to the time of day, it being dusk;
- Comment on the brightness of the CCTV footage and whether that was an accurate representation of the light at the time of day;
- Provide an estimate of the speed of the motorcycle when it first comes into view and the speed of the motorcycle at impact.

Expert Report by [REDACTED]

Mr [REDACTED] visited the scene of the collision on [REDACTED], [REDACTED] 2021 and on the anniversary of the collision, [REDACTED] 2022. He measured the scene using a Faro laser scanner from which he prepared 3d scaled models of the road using Faro Scene software. He also analysed the CCTV footage.

The key findings of the expert were that the motorcycle (with its headlight illuminated) would have been in the defendant's view as he approached the junction, albeit driving conditions at dusk can be challenging. There were no vehicles behind the motorcyclist that would have disguised his foreground and so the single headlight should have been visible.

The expert calculated that when the motorcycle first came into view, it was travelling at approx. 36 mph but then, as it got closer to the junction, accelerated to between 41 and 43mph.

The defendant's vehicle was travelling at a speed of approx. 18mph as it approached the junction but did not stop or appreciably slow before starting to turn right.

The expert acknowledged that the CCTV appeared to be much lighter than the lighting conditions at the time. This is intentional given that the purpose of the CCTV is to allow more light to enter to enhance visibility.

The front of the [REDACTED] dipped immediately prior to the collision indicating that he had applied braking immediately before the collision and had therefore perceived the motorcyclist prior to braking. Applying accepted research into perception and reaction time, the expert calculated that the average perception and reaction time for a driver faced with these circumstances would be 1.6 seconds.

The expert depicted the relative position of the motorcycle to the [REDACTED] had Mr Y's perception and reaction time been 1.6 seconds and calculated that, had the motorcycle been travelling at 30mph at the commencement of the [REDACTED]'s turn, the [REDACTED] would not have cleared the path of the motorcycle and a collision would have still occurred.

On the basis of our expert's report and the prosecution witness statement, it was my opinion that the offence was made out and that my client would be convicted at trial.

Provide an outline of any ethical or conduct issues that arose in the case and how they were dealt with

Duties to other lawyers

I was aware that following the collision, Mr [REDACTED] had been represented by a family friend solicitor in police interview. On learning that the cover on his insurance policy included defence representation in police investigation and/or criminal proceedings, he had confirmed to the insurer that he wished to accept our services and a meeting was set up for me to meet with him.

At the start of the meeting, I confirmed that he was not committed to instruct me and that if he wished for the solicitor that represented him in interview to continue acting for him, his insurers may still agree to funding. I confirmed that if this was what he decided I would be happy to make those enquiries with his insurer. Mr Y confirmed to me that he had discussed this with his father and that had they known that legal representation was covered under the policy they would have engaged us earlier. He confirmed to me that he wished for me to take over the case.

I then drafted a form of authority for Mr Y to sign to authorise the transfer of papers. This was sent to the firm of solicitors who sent over their police station attendance file.

Duty to the client

In my initial meeting it became very clear that my client relied on his father a lot for support and that he seemed to speak on his son's behalf a lot of the time. Before taking my client's instructions, I tactfully explained to the father that I needed to obtain Mr Y's account and that I needed to be sure that this was his own untainted account. I then asked if the father would be content for me to interview Mr Y without him present. The father fully understood this and I took initial instructions from Mr Y alone.

As the case developed, Mr Y's father soon became the point of contact. Before discussing anything with Mr Y's father, I sought confirmation from Mr Y that he was content for me to discuss matters with his father. Mr Y confirmed that he was content with this and that this was preferable to him.

Provide an outline of any funding issues that arose in the case and how they were dealt with

There were no funding issues as the defendant's motor insurers agreed funding his legal representation. Following my initial review of the case and meeting with the client, I provided the insurer client with a report including the recommendation of a reserve (estimated fees) to trial. As the case progressed, I sent further reports with an updated fee estimate.

Prior to incurring any disbursements, for example counsel and expert, I reported to the insurer client with an estimate of fees to ask for confirmation of authorisation in advance. In this case, the expert was required to return to the scene of the locus on the anniversary of the collision and this was agreed with the insurer client in advance.

Provide an Outline of the advice provided to the client and the outcome of the matter

Initial advice and advice on police interview

In my initial consultation with the client, I provided advice regarding the timeframe for the police investigation. I advised that if the police pursue a careless driving prosecution, they have six months from the date of the incident to lay the charge. If they were considering dangerous driving or an

offence of causing serious injury there is no limitation on time in which to charge. I advised that typically we can be waiting up to 12 months, and often longer, for a decision on dangerous driving.

Extracts from my attendance note:

I advised on the offences under consideration and what the prosecution would have to prove for a court to find him guilty of the offence. I explained that careless driving is driving that falls below the standard of a careful and competent driver and that dangerous driving is driving that falls far below the required standard. Typical examples of careless driving are a momentary lapse of concentration or a misjudgement. Dangerous driving is more serious. Typical examples are driving at excessive speed, on the wrong side of the road, driving whilst under the influence of alcohol or drugs. In this case, there was serious injury which has led to the motorcyclist having his leg amputated. I advised that, from the information known to me at this stage, I think it unlikely that he will be looking at a charge of dangerous driving. I advised on the burden of proof and what the prosecution has to prove for each offence. In my view, crossing the path of an oncoming vehicle is typical of a careless driving offence. There is nothing that I know of to suggest dangerous driving. I also advised that there is currently no offence of causing serious injury by careless driving. I am therefore of the view that, if there is a prosecution against him, it is more likely to be a charge of careless driving.

Mr Y asked me when I will get to see the evidence the police have gathered. I advise that technically the prosecution are under no duty to disclose to us any of the evidence until such time that the case proceeds to court. However, if the Police re-interview him, this puts us in a position where we can seek to persuade the police to disclose their evidence. I ask Mr Y if the police have mentioned any CCTV evidence to him. He confirms that the police have indicated that there is CCTV that shows the collision. I advise that I will ask the police to disclose it to me, however they are unlikely to share it with me at this stage. If he is re-interviewed I will ask for disclosure of it before the interview, but they are not under an obligation to show it. I advise that sometimes they will refuse disclosure in order to obtain an untainted account. In other words, they don't want your account to be influenced by what any footage might show. I advise that if there is CCTV and if it sufficiently informs the police of the mechanics of the collision, it will be fundamental to the case and the prosecution decision.

Throughout the meeting, Mr Y was emotional. he said that he couldn't understand how the collision had happened and that he kept trying to work it out in his head. I had to balance my advice with empathy and maintain a warm and engaging approach with this client.

I advised that there are many circumstances in which drivers fail to identify a hazard. We are human with restrictions and limitations and so we can only expect to accommodate situations with a human's capacity. I advised that the required standard is careful and competent and that this is not a counsel of perfection. I explained that in all likelihood in due course we would recommend to the insurer that we instruct an expert to consider all the circumstances of this collision to explore any potential reason or reasons why he may not have seen the motorcyclist until it was too late.

Advice regarding police interview

Mr Y's account is that he conducted the required checks and looked for other vehicles before making his turn but didn't see any. This is not a situation in which he did not look. I advised Mr Y that I thought he ought to provide this account to the police and so it was my advice that I approach the police to ask if they will re-interview him. I advise that this will be important if he is prosecuted. Even if he decides to plead guilty later down the line, the optics will be better if he provides an account to the police. Furthermore, the interview is a good opportunity for him express his remorse. Mr Y confirmed that he understood and that he was content for me to contact the police to ask for another interview under caution.

I advised Mr Y on the caution. I advised that he doesn't have to answer any questions at all – that is his right. However, the point here is that if he fails to mention something that he later relies on, the court could draw a negative inference from this. In other words, if he wants to advance an account at trial that he has not mentioned in interview the court could assume that he might not be telling the truth or that he has made up his account. Furthermore the interview will be recorded and can be checked against any future account advanced.

I explained that if he were re-interviewed he had options in respect of how to approach the interview itself. He could say nothing at all, answer all the questions directly or advance a pre-prepared statement setting out his account in full. I advised Mr Y that he ought to put forward his account in interview but that he needed to be cautious about how to do this because he needed to keep his account under control. I advised Mr Y that in the circumstances in which an interviewee wishes to advance their account but avoid any risk of self-incrimination and keep the interview under control we would advise on presenting a prepared statement. I explain that this is particularly appropriate where someone is nervous about the interview process and may struggle to get their account across properly by answering the questions. Having spent time with him, it was my view that he may find the interview stressful and that all things considered in the round, I felt that advancing a prepared statement would be the best way forward. This would enable him to put forward his account in a clear and logical manner. I asked Mr Y if he was content with that approach and he confirmed that he thought it would be best.

I further advised that when a client is advancing a prepared statement, we would usually advise no comment to any questions put in interview. I explain that when a client has advanced an exhaustive statement covering all points, the police will often go through the procedure of asking the questions anyway. I advise that the prepared statement will be his complete account and that he need not be drawn into answering any questions subsequently put to him. The police may try to provoke a response by asking innocuous questions and advise him against being tempted to respond as this may undermine the account he has advanced. I advised that sometimes when the police are faced with a very detailed statement, the police may feel that there is no need to ask any further questions, but I thought that would be unlikely in this case.

Advice on Criminal Liability

See letter of advice to client dated [REDACTED] 2022.

On receipt of our expert's initial report, I arranged a conference with Mr Y and Defence Counsel in our offices.

Despite the findings of the expert, Mr Y was not receptive to pleading guilty to the offence. There were several contentious points:

- Mr Y did not accept our expert's calculations in respect of the motorcyclist's speed. He went to the extent of buying a measuring wheel to measure the distance from the point that the CCTV camera first came into view to the datum point used by the expert to make his own calculations. Mr Y believed that the motorcycle had travelled a greater distance and at a higher speed than our expert had calculated.
- He believed that further CCTV would have been available that may have assisted his case and that the Police were for some reason withholding evidence.
- He believed the lighting conditions at the time would have made it very difficult to detect the motorcyclist.

My employment at [REDACTED] was due to end and I was conscious that the defendant's trial date was getting closer. I was concerned that a conviction after trial was almost inevitable and so before leaving the firm, I wanted to ensure that I had provided full advice to the defendant. I therefore sent a detailed letter of advice.

In the letter of advice, I have repeated the test that the Crown would have to meet for a court to find him guilty of the offence. I have advised that a driver turning right at a traffic light-controlled junction has a duty to ensure the road ahead is clear and the fact that the motorcyclist had already entered the junction at the point that he started to turn, demonstrates that he did not observe that duty.

In respect of the motorcyclist's speed, I advised that the court would be likely to accept that the motorcyclist was travelling fast but that this would not be sufficient to absolve the defendant from criminal liability as the focus of the case would be on the standard of his driving and not that of the injured party. To resolve the defendant's preoccupation on the motorcyclist's speed, I was able to make the very important point found by the expert; that even if the motorcyclist had been travelling within the speed limit, a collision would still have occurred.

I acknowledged the defendant's doubt in respect of our expert's findings on the motorcyclist's speed due to the basis of distance travelled but then sought to argue that the point had limited value in any event and did not take the defendant's case any further. I proposed potential reasons for the apparent difference in measurements, and then, by way of conciliation, provided a calculation of speed based on the measurement obtained by the defendant. I was able to show that based on the defendant's finding in relation to distance, the speed of the motorcyclist would have been travelling at a consistent 41- 43mph, still not fast enough to have been out of view or not presenting as a hazard.

In respect of the lighting and the difficulty this may have presented, I advised that the flip side of this argument is that this places a higher burden on a driver to take more care.

Finally I advised that in mine and defence counsel's assessment, the defendant did not have a strong defence and that a conviction was more likely than not with the caveat that Magistrates' Court trials are unpredictable and so we cannot guarantee any outcome. I also made it clear that I was not

seeking to persuade him to change his plea and that if he decided to maintain his not guilty plea to trial, we would do our level best to defend the case.

I also advised on the potential for an abuse of process application due to apparent police failure in obtaining all available CCTV footage.

It was my view that, whilst the court may find that the police had breached their duty to pursue all reasonable lines of enquiry so as to obtain and/or retain material, they would probably decide that such an abuse did not invoke a stay of proceedings. I advised that the criteria for a stay of proceedings to be invoked following an abuse of process is that the defendant cannot have a fair trial. It was my view that the footage relied on by the Crown was compelling in determining the issue at trial and therefore an abuse of process argument would be unlikely to succeed.

Finally, I advised on the sentencing guidelines and costs implications.

The matter proceeded to the hearing on [REDACTED] January in my absence having left the firm. I was informed that the defendant pleaded guilty on the day of trial and received the minimum sentence possible – 5 points.

Provide an outline of the decisions that you had to make in the case and whether you had to take any strategic decisions in the case

Police Interview

Very early in my involvement in the case, I decided that the defendant ought to have a second opportunity to be interviewed by the Police. At such an early stage, I did not have the benefit of sight of the evidence and so did not know whether he had prospects of defending the matter. However, in light of the potential for a defending trial in due course, I considered it important for him to advance his account in interview.

I therefore liaised with the Investigating Officer and arranged a suitable date and time for interview.

Application to Re-open

As set out above, we learned that the matter was being heard by the court from our insurer client. We then became aware that the defendant had received the single justice procedure papers but had not opened the post and had missed the deadline for confirming a plea.

Given the potential that the defendant had been convicted in absence, I took the decision to apply to the court in writing to re-open the case under Section 142 Magistrates' Court Act 1980. The situation demanded urgent and immediate action to resolve the position.

Expert to re-visit location on the anniversary of incident

The Defendant took issue with several aspects of our expert's initial report, one of which was the lighting at the time of the incident. Although the expert had commented in his report that the lighting on the CCTV footage was much brighter than it would be in real time, the defendant didn't feel that the point had been made sufficiently.

To that end, I canvassed the expert to arrange for him to revisit the location on the anniversary of the collision. By doing so, the expert was able to incorporate actual images which showed what the

lighting was like at the time of the incident. To arrange the further inspection, I had to seek prior approval from the insurer client.

Arrange further conference and send letter of advice

During the course of the criminal proceedings, we had had several conferences with the client and we had reverted to our expert on several occasions to review his report. On receipt of the final report by our expert, it was my view that we needed a final conference before the trial date to confirm our advice. I set this up and prior to the conference sent the letter of advice so that the defendant could digest the advice in readiness for the meeting.

Provide a description of any training or development needs you have identified as a result of having dealt with the case

There were no training or development needs arising as such; however the case did teach me the importance of patience with clients, particularly in respect of their understanding of technical concepts, and being agile to find better ways to communicate.

By way of an example of this, in order to show the defendant that at the point he started to turn right, the motorcyclist had already entered the junction, I asked the expert to prepare a series of still images which showed the relative positions of the vehicles at various points up to and including the point that the defendant commenced his turn. We discussed the still images in conference.

There were occasions when defendant's preoccupation on points which didn't really take his case any further could be quite frustrating, but it was crucial to always remain professional and constructive.