

# 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.

**© Stephen Mason and Allison Stanfield, 2017**

### 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/>.

All papers are peer reviewed blind.

See our **Guide for Authors – submission and editorial information** at: <http://ials.sas.ac.uk/digital/ials-open-access-journals/digital-evidence-and-electronic-signature-law-review/digital-1>

### Copyright, licence and acknowledgement

The contact details of the author should be included in the submission (name, qualifications, name of firm, company or university, full postal address, web address), plus a brief biography demonstrating expertise and experience of up to but no more than 50 words in length.

The author retains copyright and grants the publishers of the Review a licence to publish the article in the Review and to create and maintain digital copies on the internet at the discretion of the publisher and via third parties in subscription databases. The author warrants that they are the owner of all rights of copyright in the article.

Work published in the open access version of **Digital Evidence and Electronic Signature Law Review** on the

SAS Open Journals System is licensed under a Creative Commons licence. Where the author subsequently publishes the article, the author is requested to acknowledge the article first appeared in the Review, in whatever format it is subsequently published.

Those who contribute items to **Digital Evidence and Electronic Signature Law Review** retain author copyright in their work but are asked to grant two licences:

1. One is a licence to the Institute of Advanced Legal Studies, School of Advanced Study of the University of London, enabling the Institute to reproduce the item in digital form, so that it can be made available for access online in the Open Journals System and repository and website. The terms of the licence, which you are asked to grant to the University for this purpose, are as follows:

‘I grant to the University of London the irrevocable, non-exclusive royalty-free right to reproduce, distribute, display, and perform this work in any format including electronic formats throughout the world for educational, research, and scientific non-profit uses during the full term of copyright including renewals and extensions’.

2. The other licence is for the benefit of those who wish to make use of items published online in IALS Student Law Review and stored in the e-repository. For this purpose we use a Creative Commons licence allowing others to download your works and share them with others as long as they mention you and link back to your entry in the **Digital Evidence and Electronic Signature Law Review** and/or SAS-SPACE, but they cannot change them in any way or use them commercially.

Where the author subsequently publishes the article, the author is requested to acknowledge the article first appeared in the Review, in whatever format it is subsequently published. The publisher owns the copyright to the text as it appears in the published journal.

The usual rights of editorial control exist with the publisher.