



BUSINESS SENSE by TIM KELLY

# What are the duties of an engineer?

When I first became an engineer, one of the best things I did was to undertake training with the Institute of Automotive Engineer Assessors (IAEA) and do the exams. Anyone involved in the industry as an engineer would benefit massively from doing this. I thoroughly enjoyed it and have continued to further my knowledge about the industry.

It is important that you don't stop learning, or get to a point that you "think" you know it all and become dismissive. Engineers have been massively undervalued by insurers and are seen as an unwanted necessity, but maybe that is because they do not realise how beneficial an engineer can be.

It is a complex role, and there are few who fully understand the complexities of the laws and regulations that surround the job, the significance of them and how this affects the consumer.

Probably a good place to start in understanding the role of an "assessing engineer" is as an:

1. Expert witness.
2. Vehicle damage assessor.

But these are very different though.

The expert witness has an overriding duty to the court in the evidence they provide, and not to their paymaster.

If advising in your professional capacity as an engineer, the report may be needed in court and could be subject to CPR 35 rules. Many an engineer applies rates advised by their work provider to be the rates being applied. The instance

this is done, their report is no longer impartial and they could be found in contempt of court.

When assessing an accident-damaged vehicle, the engineer's role is to evidence the damage and identify the correct methodology to reinstate the vehicle. There is no duty for them to mitigate loss on behalf of any party. So, the engineer should not be negotiating in any way on anything other than the methodology or repair and what is required to carry out that repair.

Vehicle damage assessors have no duty to the court (as they are not expert witnesses) but they do have a duty to make sure the vehicle is reinstated to manufacture specifications.

If a repairer changes the repair methodology based on what the engineer advises, it does not remove their liability. Both parties are then liable.

To read how badly this can go, scan the first QR code that follows.

## The regulations and law

The insurance industry is governed by the Financial Conduct Authority (FCA). The FCA's role is to apply the statute that is the Financial Services and Markets Act 2000.

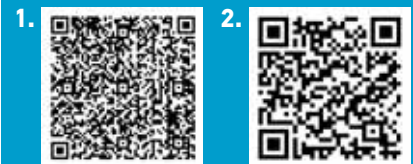
When an engineer acts for an insurer, either as an independent contractor or directly, they must abide by FCA regulations, as they act under the insurers' regulated authority.

The main purpose of the FCA

regulations is to protect consumers from harm by "financial institutions" such as insurers. The specific area is called ICOBS – the Insurance Conduct of Business Standards.

But there are other areas that apply as well. These needs to be viewed relative to the laws that apply.

The second QR code below explains the law of "tort" applicable on non-fault claim.



## Contract law

All the above applies to an insurer or intermediary arranging an engineer, and if in doing so it leads to a material risk to a consumer (an engineer negotiating in reducing settlement or an insurer contracting a repair at a reduced rate) could breach the regulations and cause financial detriment to the consumer. In doing so the consumer has the right to go to the FOS and advise of these breaches and seek full settlement and compensation.

As professionals, it would be wise to thoroughly understand the regulatory requirements that apply to our industry and that consumers are not harmed in their dealings when making a claim.

